Supreme Court, U. S.
FILED
AUG 12 1974
MICHAEL RODAK, JR., CLERK

APPENDIX

VOLUME I

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 73-1462

MARK WHITE, ET AL.,
Appellants

V.

DIANA REGESTER, ET AL.,,
Appellees

MARK WHITE, ET AL.,
Appellants

V.

FRANK A. ESCALANTE, ET AL.,
Appellees

MARK WHITE, ET AL.,
Appellants

V.

JAMES GASKIN, ET AL.,
Appellees

MARK WHITE, JR., ET AL.,
Appellants

V.

WANDA L. CHAPMAN, ET AL.,
Appellees

Appeal from the United States District Court
for the Western District of Texas

FILED JANUARY 30, 1974

PROBABLE JURISDICTION NOTED MAY 28, 1974

INDEX

VOLUME I

	Page
Docket Entries	i
Trial Testimony (December 3-5,1973)	1
R. C. Johnson	31
J. W. Sifford	35
John Dillard	50
Betty Fisher	61
Marvin Collins	154
Bobby Webber	161
Carlos Puente	173
Gibson Lewis	180
Ed Harris	237
Larry Bales	255
Stuart Long	262
Ben T. Reyes.	283
Charles Miles	310
Volmar Overton	361
Tommie L. Wyatt	383
Lamar L. Kirven	387
Gonzalo Barrientos	396

VOLUME II

David Morales	415
Frank Owen	438
Vincent Kemendo	462
Paul Ragsdale	482
Sarah Weddington	493
Carlos Truan	515
Dr. Charles Cotrell	555

Discussion concerning District 35 937
Discussion concerning District 3 945
R. B. McAlister 951
Discussion concerning District 72 966
L. DeWitt Hale 973
Carlos Truan 989
L. DeWitt Hale (Recalled) 995
Parties Rest 997
Decision of Court 1005
Deposition of Joyce Wendell Sifford 1014
Deposition of Betty J. Fisher 1132
Deposition of R.C. Johnson 1200
Deposition of George A. McAlmon . . 1257

VOLUME IV

Deposition of Apoloneo Montemayor . 1298
Deposition of Dr. Hector P. Garcia . 1354
Deposition of L. DeWitt Hale 1397
Deposition of Travis Peeler 1470
Deposition of Robert L. Gilbert . . 1504
Exhibit 1 annexed to Deposition of Robert L. Gilbert 1557
Deposition of Tom P. Moore, Jr. . . 1562
Deposition of William B. Oliver . . 1612

VOLUME V

Deposition of Cleveland Nisby . . . 1724
Deposition of Terry Doyle 1744
Deposition of Reverend Rodney Howell 1801
Exhibit 1 annexed to Deposition of Reverend Rodney Howell 1878
Exhibit 2 annexed to Deposition of Reverend Rodney Howell 1881

Exhibit 3 annexed to Deposition of Reverend Rodney Howell 1882
Deposition of Jessie Rangel . . . 1885
Deposition of Froy Salinas . . . 1915
Exhibit 1 annexed to Deposition of Froy Salinas 2015
Exhibit 3 annexed to Deposition of Froy Salinas 2016
Deposition of Madison Sowder . . 2018
Exhibit 1 annexed to Deposition of Madison Sowder 2067
Exhibit 2 annexed to Deposition of Froy Salinas 2068
Exhibit 1 annexed to Deposition of Dr. Hector P. Garcia 2071
Exhibit 2 annexed to Deposition of Dr. Hector P. Garcia 2135
Exhibit 3 annexed to Deposition of Dr. Hector P. Garcia 2136
Exhibit 4 annexed to Deposition of Dr. Hector P. Garcia 2137
Exhibit 5 annexed to Deposition of Dr. Hector P. Garcia 2141
Exhibit 6 annexed to Deposition of Dr. Hector P. Garcia 2142
Exhibit 7 annexed to Deposition of Dr. Hector P. Garcia 2143

VOLUME VI

Plaintiff Intervenor Gaskin,et al., Redistricting Plan for Tarrant County 2144

Plaintiff Intervenor Moreno, et al., Redistricting Plan for Lubbock County 2179
Plaintiff Intervenors Wright & Crawford Redistricting Plan for Travis County. 2186
Plaintiff Intervenors Wright, Redistricting Plan for Galveston, McLennan and Jefferson Counties 2200
Republican Plaintiff and Plaintiff Intervenor Moreno Redistricting Plan for El Paso County. 2230
Plaintiff Escalante Redistricting Plan for Tarrant County 2238
Plaintiff Intervenor Moreno Redistricting Plan for El Paso County 2256
Defendants Exhibit 44 2268
Defendants Exhibit 47 2286
Defendants Exhibit 48 2290
Defendants Exhibit 49 2294
Defendants Exhibit 51 2295
Plaintiff Intervenor Wright Exhibit 29 2301
Plaintiff Intervenor Wright Exhibit 30 2309
Plaintiff Intervenor Wright Exhibit 31 2313
Plaintiff Intervenor Wright Exhibit 32 2318

Plaintiff Intervenor Moreno Exhibit 24 2335
Plaintiff Intervenor Moreno Exhibit 25 2372
Plaintiff Intervenor Moreno Exhibit 31 2377
Plaintiff Escalante Exhibit 1-A . 2378
Plaintiff Escalante Exhibit 1-B . 2379
Plaintiff Escalante Exhibit 1-C . 2380
Plaintiff Escalante Exhibit 1-D . 2381
Plaintiff Escalante Exhibit 1-E . 2382
Plaintiff Escalante Exhibits 3-A through 3-C. 2383
Plaintiff Escalante Exhibits 3-D through 3-F 2384
Plaintiff Escalante Exhibits 3-G through 3-I 2385
Plaintiff Escalante Exhibit 4 . . 2386
Plaintiff Escalante Exhibit 5 . . 2397
Plaintiff Escalante Exhibit 6-A through 6-C 2406
Plaintiff Escalante Exhibit 7-A . 2407
Plaintiff Escalante Exhibit 7-B . 2408
Plaintiff Escalante Exhibit 7-C . 2410
Plaintiff Escalante Exhibit 8-A . 2412
Plaintiff Escalante Exhibit 8-B . 2413
Plaintiff Escalante Exhibit 8-C . 2414
Plaintiff Escalante Exhibit 8-D . 2418
Plaintiff Escalante Exhibit 9 . . 2422
Plaintiff Escalante Exhibit 10-A . 2424

Plaintiff Escalante Exhibit 10-B . 2432
Plaintiff Escalante Exhibit 11-A . 2436
Plaintiff Escalante Exhibit 11-B . 2440
Plaintiff Escalante Exhibit 12-A . 2442
Plaintiff Escalante Exhibit 12-B . 2447
Plaintiff Escalante Exhibit 13-A . 2449
Plaintiff Escalante Exhibit 13-B . 2459
Plaintiff Escalante Exhibit 14-A . 2462
Plaintiff Escalante Exhibit 14-B . 2469
Plaintiff Escalante Exhibit 14-C . 2473
Plaintiff Escalante Exhibit 15-A . 2477
Plaintiff Escalante Exhibit 15-B . 2486
Plaintiff Escalante Exhibit 16 . . 2487
Plaintiff Escalante Exhibit 17 . . 2545
Plaintiff Escalante Exhibits 18-A through 18-E 2557
Plaintiff Escalante Exhibit 18-F . 2558
Plaintiff Escalante Exhibit 18-G through 18-I 2560
Plaintiff Escalante Exhibit 19 . . 2561
Plaintiff Escalante Exhibit 20 . . 2562
Plaintiff Escalante Exhibit 21 . . 2563
Plaintiff Escalante Exhibit 0 . . 2571
Plaintiff Escalante Exhibit 1(a)' through 1(g)'. 2574
Plaintiff Escalante Exhibit 3(a)' through 3(i)'. 2584
Plaintiff Escalante Exhibit 7(a)' through 7(c)'. 2585
Plaintiff Escalante Exhibit 8, 9 . 2587

Plaintiff Escalante Exhibit 1F--Proposed Single District Map of District 32 (Tarrant County): Large easel-size map not reproducible in a printed appendix. Original map contained in the original record in the clerk's office. (For similar map, see Plaintiff Escalante Deposition 1F).

Plaintiff Escalante Exhibit 2A--Tarrant County Census Tract Information: Bulky exhibit not reproduced in printed appendix because all other relevant data cited therefrom is contained in other exhibits.

Plaintiff Escalante Exhibit 2B--Tarrant County Block Information: Bulky exhibit not reproduced in printed appendix because all other relevant data cited therefrom is contained in other exhibits.

N O T A T I O N

The following items appear in an appendix to the Jurisdictional Statement at the paged noted and are not reprinted in this appendix:

Opinions of the lower court. . . 1A

Majority opinion 1A

Order of the Court 69A

Wood, District Judge,
dissenting 72A

D O C K E T E N T R I E S

GRAVES, ET AL.

V. A-71-CA-142

BARNES, ET AL.

(Full title omitted in printing, docket entries prior to June 22, 1973 omitted)

6-25-73	92- Slip Opinion Supreme Court U.S. (See (A-71-CA-143)
6-18-73	92- MOTION TO INTERVENE (SEE CIVIL A-73-CA-115 for list of Intervenors) filed. with copy of Complaint in Intervention attached. Motion & Order to Judge Justice for signature.
6-18-73	93- Authorities in Support of Motion to Intervene, filed.
6-25-73	94- Slip Opinion Supreme Court U.S. filed (See A-71-CA-143)
8-7-73	95- Motion to Intervene in instant case and A-71-143, 144, & 145 filed (Dave Richards Attorney)
8-17-73	96- Motion to Intervene in instant case and A-71-143, 144 & 145, filed by James Gaskin, Charles Puente, Bobby G. Webber, Dorothy Perez & Richard Quevedo and Barbara Nelson (see A-73-CA-146-Atty, Norman M. Bonner, Jr.) Copy to Judges w/Compt.

8-17-73 97- Authorities in Support of Motion to Intervene, filed. Copy to Judges.

8-17-73 98- Order entered by Managing Judge William Wayne Justice to all attorneys -order-briefs re jurisdiction & issues in this case, filed. Copy to all attorneys.

See p. 93

9-4-73 98a- Brief of Defts. on Quest. of Jurisdiction & Power of This Court & Remaining issues, filed. A-71-CA-142, 143, 144, 145.

9-5-73 99- Brief of Plaintiffs, George Willeford, et al, Regarding the Appropriateness of Further Proceedings, filed. (A-71-CA-142, 143, 144, 145) Copy to 3 Judges

9-5-73 100- Motion to Intervene filed by Franklin R. Sears, Rev. C.A. Holliday, Alan McNeill, Walter S. Smith, Jr., Harrell Z. Browning, Vincent Kemendo, William C. Davidson, Jr., Joe Summers, Jr., and C.B. Garcia. Copy to 3 judges. (A-71-CA-142, 143, 144 & 145) Also copy to Judge Roberts since they are motioning to Intervene in A-73-CA-115)

8-31-73 101- Memorandum as to Further Proceedings on continued jurisdiction, filed by Diana Regester (A-71-CA-143)

9-10-73 101- Memorandum as to Further Proceedings on continued jurisdiction, filed by Diana Regester (A-71-CA-143)

9-10-73 102- Amicus Curiae Brief of Tarrant County Intervenors on Question of Continuing Jurisdiction filed (Ind. Suit A-73-CA-115), filed. Copy to Judges by atty.

9-28-73 (filed 10-3-73) 103- Order entered Recusing Judge Roberts and consolidating all cases of Action A-71-CA-142, 143, 144 & 145; A-73-CA-115, 146 and 155, filed. Copy to all attorneys in all cases (for hearing only.)

10-4-73 104- Order entered by Managing Judge Wayne Justice setting trial date of Dec. 3, 1973 at 9:00 a.m., at Austin. Order also grants all petitions for intervention pending before the panel. (Original Order filed herein)

10-4-73 105- Compalint in Intervention filed by Plaintiffs in A-73-CA-115. Copy to Judges with copy of Motion & Brief in Support (with exhibits attached)

10-4-73 106- Compalint in Intervention filed by Plaintiffs in A-73-CA-146). Copy to Judges.

10-4-73 Motion of party Plaintiffs Charles Wright (Travis Co.), et al, filed by Dave Richards, Attorney, granted by Order of Managing Judge Justice, filed Oct. 4, 1973 (No separate Complaint was filed by these Intervenors)

10-18-73 107- Motion to Intervent filed by Rosa Maria Gonzalez, Moreno, et al (in A-71-CA-142, 143, 144 & 145 only) Copy to 3 judges with proposed Order to Managing Judge Wayne Justice (Copy of Complaint in intervention also forwarded and original in file)

10-19-73 108- Motion to Intervene filed by Collis E. Cannon and Cleveland Nisby (in all Seven cases)(Dave Richards Attorney) Copies to Judges.

11-6-73 109- Interrogs to Defts. filed by Pltff-Intervenors Charles Wright, et al. Copy to Judges.

11-13-73 110- Order setting Nov. 26 for briefs to be filed. Copy to attorneys & Judges

11-15-73 111- Interrogatories to Defendants filed by Pltff Dr; Willeford & Pltff Intervr. Franklin R. Sears.

11-21-73 112- Deposition of Robert L. Gilbert (taken by Plaintff), filed. (in this case file)

11-23-73 113- Answers and Objections to Interrogatories filed by Defts. Mark White & Dolph Briscoe in response to interrogs propounded by Pltff-Intervenors Charles Wright, et al, filed. (filed in this A-71-CA-142)

11-23-73 114- Motion for Leave to File A Brief,

As Amicus Curiae filed by Texas Women's Political Caucus, filed. (in A-71-CA-142, (includes all cases)(and Brief in support)

11-26-73 115- Order by Managing Judge Justice for deposit of $4,000 to expedite preparation of transcript ($2,000 each by Deft. & Pltff-Intervenors) and that each party supply list of witnesses for hearing for Dec. 3 by NOV 3, 1973 at 9:00 A.M. Deposit in Clerk's office by Dec. 3, 1973 at 9:00 a.m., filed. Copy to Judges and all parties' attorneys.

11-27-73 116- Depositions of Joyce Wendell Sifford, Fischer and Johnson filed (with Exhibits as Doc. #'s 22, 23, and 24 in A-73-CA-115)

*11-23-73 117- Motion for Leave to File an Amendment to Complaint (to litigate for lawful Claim for attorney's fees) with proposed Order and Proposed Amended Complaint attached by Plaintiff-Intervenors (in A-73-CA-115, Doc't #25)

*11-23-73 118- Trial Brief for Pltiffs-Intervenors Tarrant County, Dist. 32, filed. (Doc. #26 in A-73-CA-115)

11-29-73 119- Depositions of William B. Oliver, III and Oevelance Nisby, filed (in all cases)

11-30-73 120- Oral Deposition of L. DeWitt Hale filed (in all cases)

11-30-73 121- Oral Deposition of Terry Doyle, filed (in all cases)

11-30-73 122- Oral Deposition of Felix McDonald filed (in all cases)

11-30-73 123- Oral Deposition of Madison Sowder filed (in all cases)

11-30-73 124- Deft. Attorney General, State of Texas, Witness list for hearing set for Dec. 3, 1973, filed, in accordance with order of Nov. 26.

11-30-73 125- Deposit of $2,000.00 by State of Texas Voucher for DEFTS., FILED.

11-30-73 126- Witness List of Plaintiff Intervenors Wright, et al, Moreno, et al and Sears, et al, filed.

11-30-73 127- Briefs of Regester, Willeford, Bernal, Chapman and Pltff Intervenors Moreno, et al, Sears, et al and Wright et al, filed.

11-30-73 128- Deposition of Jessie Rangel, filed.

11-30-73 129- Oral Deposition of Froy Salinas, filed with exhibit.

11-30-73 130- Deposition of Rev. Rodney Howell, filed with exhibit.

12-3-73 131- Western Union Money Order Message from Mexican American Legal Defense Fund in amount of $700.00 as Pltiff-Intervenor Wright, Moreno, et al deposit (one-third of $2,000 per Order of Nov. 26, 1973.

12-3-73 132- Trial Brief for Plaintiff-Intervenors Gaskin, et al, filed.

12-3-73 133- Motion to Take Judicial Notice of Testimony Given at a Former Trial, filed by Pltiffs-Escalante, et al (A-73-CA-155, their orig. complt)

12-3-73 134- Stipulation as to Plaintiffs' Escalante, et al, Exhibits 1a and O, filed.

12-3-73 135- Minutes of CIVIL PROCEEDINGS, FILED. Motion to File an Amicus Curie Brief by Tex. Women's Political Caucus, Granted. Opening Statements made by Don Gladden and Norman Bonner for Escalante (Terrant Co.) Larry York for Atty General reserved his statements for later time. Exhibits Intrdced-all received and admitted except for 16, 17 and 21 for which objections were made (later admitted by Court) Witnesses sworn and testimony on behalf of Excalante begun. Depositions of Johnson, Difford and Betty Fischer admitted. Written objections to be presented to Court as to certain Depositions by Dec. 4th. - Escalante rests. Witnesses sworn and testimony on behalf of Gaskin Begun. Objections of Mr. Richard as to certain legislative bills-Overruled-Tarrant Co. rests. Testimony on behalf of Intervenor, Chas, Wright begun-Exh. 1-28 admitted-opening State-

3 Judge Hon. Woods, Justice, & Thornberg.

ments made by Mr. Richards (Jefferson Co., et al). Court adjourned until Dec. 4, 9:00 a.m.

12-3-73 136- Tarrant Co. Witnesses Sworn list, filed.

12-3-73 137- EXHIBITS LIST, FILED-Pltinff-Intervenor GASKIN.

12-3-73 138- EXHIBIT LIST: Pltff-Intervenors-Wright, et al-filed.

12-3-73 139- Complaint in Intervention filed by Rosa Maria Gonzalez Moreno, et al. (attorney: Mexican Amer. Leg. Def. Fund, George J. Korbel, attorney)

12-3-73 140- Escalante EXHIBIT LIST, FILED.

12-3-73 141- Moreno, INTERVENORS EXHIBIT LIST, FILED.

12-4-73 142- MINUTES OF CIVIL PROCEEDINGS, FILED. Testimony on behalf of Intervenors Moreno et al and Wright resumed. Exhibits for Republican-Plaintiffs #10-#15 admitted. Court adjourned until Wednesday Morning at 9:00 a.m. (3-Judge) (all Counties except Tarrant)

12-4-73 143- Wright, Moreno Pltff-Intervenors WITNESS SWORN LIST filed.

12-4-73 144- Republican Plaintiff's Exhibits List, filed. (Copy with Ex's 10-15 in Ex. Room.)

12-5-73 145- Minutes of CIVIL PROCEEDINGS FILED. Testimony on behalf of Intervenors,

Wright, Moreno, et al resumed. Additional Exhibits for Wright admitted #29-32 and others) All Counsel agreed to waive final arguments and to file extensive briefs with Court. Plaintiffs Intervenors rest. Testimony on behalf of Defts. begun. Attorney General's (defts) Exhbs #1a-#41 admitted (and others) Briefs to be submitted by DEC 21st (1 copy for each Judge and one for Clerk of Court's office file.

12-5-73 Minutes of civil proceedings Dec. 5 continued ..... Case taken under Advisement by 3 Judges (adjourned)

12-5-73 146- Intervenor Chapman (Pltff) Exhibits list filed. (copy with Exh. #1 only filed) in exhibit room.)

12-5-73 147- Defendants' Exhibits List filed (Attorney General's office, State of Texas) Copy with exhibits in exhibit room)

12-21-73 148- Order entered extending time to submit briefs to Dec. 28th no later than 5:00 filed-all attorneys notified by Judge Justice' office by phone.

*12-24-73 149- Motion to Substitute Party (Jack Warren, Chrmn Exec. Rep. Party for George Willeford, former chrmn), filed.

12-27-73 150- Post Submission Brief on Behalf of Plaintiff Warren and Republican Intervenors filed (R. James George, Jr., Attorney).

12-27-73 151- Post Trial Brief for Plaintiffs Charles Wright, et al and Wanda Chapman et al, filed (David Richards, Attorney)

12-28-73 152- Post Trial Brief for Plaintiff-Intervenors Gaskin, et al, filed. (Norman M. Bonner, Jr. attorney)

12-28-73 153- Trial Brief for Plaintiffs Escalante, et al (Tarrant County Dist. 32)(Don Gladden, attorney)

12-28-73 154- Post Submission Biref of Defts White and Briscoe, filed. (Elizabeth Levatino, Spec. Asst. Attorney Gen., attorney.)

1-2-74 155- First Amended Complaint in Intervention filed by Moreno, Pltff. (Korbell, atty for Maldef)(copy to Judges by attorneys)

1-2-74 156- Plaintiff's Moreno, et al Post-Trial Brief, filed. (Korbel, attorney)

*12-24-73 -Out of Order Notation: Statement received from Dorothy Daugherty, 2928 Pollard, Tyler, Texas 75701 for hearings held Dec. 3-5, 1973. $2.133.00 due.

1-7-74 157- Letter signed by three Judge stating Pltfs and Intervenors file proposed redistricting plans for Court's consideration for each district represented by said counsel prior to 1-12074 & counsel for deft should file its plan prior to 1-18-74 filed.

1-8-74 158- Order signed by three judge filing deadline for office of State representatives (providing that an application to have one's name placed on ballot as a candidate for nomination by a political party shall be filled not later than 6:00 P.M. Feb. 18, 1974 & that (providing that the county chairman shall file with county clerk of his county a list of all candidates within 10 days which will be Feb. 28, 1974 filed copies mailed to all attys all judges & Party chairmans.

1-11-74 159- Legislative Redistricting Plan and Supporting Brief of Pltf-Intervenors Gaskin, et al. (Legislative District 32) filed.

1-11-74 160- Proposed Plan of Apportionment of the Lubbock County Multi-Member District into Single Member Districts filed.

1-11-74 161- Proposed legislative district plan for Travis County (with accompanying descriptive data filed

1-11-74 162- Proposed legislative district plans for counties, Galveston, McLennan & Jefferson with accompanying descriptive data attached filed.

1-11-74 163- Proposed Plan of Apportionment of the Nueces County Multi-Member District into Single Member Districts filed.

1-14-74 164- Letter dated Jan. 11, 1974 to all parties from managing Judge William Wayne Justice re error in Exhibit #1 submitted by Attorney Richards on behalf of plaintiffs, Wright, et al. Attorney Richards to respond by 5:00 p.m., Wed. Jan. 16, 1974; stips or objections to response to be filed by 5:00, Jan. 21, 1974.

1-14-74 165- Proposed Redistricting Plans for Tarrant, Travis, McClennan, Lubbock, Nueces, Jefferson & El Paso Counties (by Republican Pltffs)(El Paso Co. also submitted on behalf of Pltff Moreno), filed (R. James George, Atty). (Galveston County also included but not mentioned in transmittal letter)

1-14-74 166- Proposed plan lines of Plaintiffs-Intervenors, Escalante, et al (Tarrant County), filed (attorney Don Gladden)

1-16-74 167- Corrected Exhibit 1 filed by Attorney David Richards (Wright Pltff-Intervenors) in keeping with Court's letter of 1-14-74.

1-16-74 166- Addendum to porposed plan filed by Escalante, et al (A-73-CA-115) Don Gladden, attorney.

1-21-74 168- Letter dated Jan. 18, 1974 from Attorney R. James George, Jr. (Reps. Pltffs) re submitted

1-23-74 169- Proposed Plans submitted through Attorney General, State of Texas relating to Tarrant and Nueces Counties filed

1-24-74 170- Letter from Managing Judge Justice to Counsel (dated Jan. 18, 1974) advising proposed single-member plans will be discussed at hearing set for 9:00 A.M., Jan. 28, 1974. Opinion and order of Court will be forthcoming shortly after the hearing. (Also stating Dists. #7, 32, 35, 37, 48, 72 & 75 are unconstitutional)

1-24-74 171- ALL NON-PARTY PLANS submitted in compliance with Omnibus Order entered Oct. 4, 1973, filed. 11 plans submitted as follows:

a. District #80, submitted by Joe Pentony-Representative-9 Counties

b. District #32, submitted by Doyle Willis, Representative-Tarrant.

c. Nueces County, submitted by L. DeWitt Hale

d. Tarrant County, submitted by Citizens for Reform, Harold D. Hammet, Chrmn.

e. McClennan County submitted by Lyndon Olson, Jr. & Lane Denton, Reps.

f. Travis County submitted by Democrat Executive Committee

g. El Paso County submitted by Ronald D. Coleman, St. Rep.

h. Tarrant & Parker Counties, Sub'd by-Citizens, Sherman, Hilliard & Spurlock, II

I. Lubbock Hale & Swisher Counties-Sub'd by- Delwin Jones, Chrmn, House Redistg Comm. & St. Rep. McAlister, Member 63rd Session.

J. Jefferson County-Dist. #7-Submitted by-Committee Chrmn, Nelson Brocato and Webber.

k. Lubbock County-submitted by St. Reps. (Dist 75) McAlister and Tarbox.

l. Lubbock County, Submitted by James E. "Pete" Laney, representv.

m. Travis County Map Plan, submitted by HUB; Austin City Plan, submitted by HUB.

1-28-74 172- Revised plan for Rep. Pltffs for El Paso County, filed (one census tract only)

1-28-74 173- Proposed Single-Member Dist. Plan for El Paso County, Tx, submitted by Attorney Korbel, filed.

1-28-74 174- Letter dated Jan. 23, Judge Justice regarding unsealing non-party plans.

1-28-74 175- MINUTES OF CIVIL PROCEEDINGS FILED. Hearing on Proposed plans for single-member districts for #7, 32, 35, 37, 48 72 and 45. Testimony begun on Tarrant Co. Pltffs Wright & Moreno adopt Pltff

Escalante plan for Tarrant Co. Gladden Plan submitted. Pltff Gaskin Plan submitted. Republican Plan submitted, Deft, State of Texas Plan Z submitted. Testimony re Tarrant Co. concluded. Arguments presentd. Atty. Gladden argues for Escalante Plan; Atty. Bonner argues for Gaskin Plan; Atty George argues for Republican Plan. Moreno, et al announce support of Gaskin Plan. Ass't Attorney General York argues for Plan Z. Testimony on Jefferson County Begins: Pltffs Wright testimony presented and concluded. Republican Testimony began & Concluded. State of Texas Testimony began & concluded. All parties waive argument on Jefferson Co. McLennan County: All Pltffs announce agreement upon a plan. Tom Moore, Rep. from McLennan Co. submits plan of McLennan Co. Commissioners. (Exh. #1) State had not adopted Plan & presented no testimony. Repub. presented no testimony on their plan. Travis County: All parties Pltff announce agreement on Plan. No testimony presented on Republican Plan. State of Texas submits copy of Comm'rs Co. Precincts. Civil Proceedings of hearing held Jan. 28, continued (from previous page) Lubbock County: All Pltff Parties Announce no testimony to present.

Pltffs Wright & Moreno join in adoption of a plan Republc'n Plan - no testimony presented; State of Texas testimony begun. Moreno (Pltff) argues for Pltff parties' plan. El Paso County: All Pltff parties announce adoption of Coleman Plan (submitted, non-party) Republican-Moreno Plan is withdrawn. No Plan submitted by State of Texas for El Paso County. Nueces County: All pltff parties announce adoption of Mexican American Legal Defense Educational Fund Plan (Korbel. Attorney) State of Texas announces adoption of M.A.L.D.E.F. and Hale Plan (submitted by L. DeWitt Hale, non-party). Pltff's present rebuttal testimony for MALDEF Plan. Mr. Korbel argues in favor of MALDEF Plan. Republican Plan had no testimony to present. All Pltffs Rest. State of Texas Rests. Dave Richards, attorney for Wright-Intervenors stipulates 225 hours of time put into case since Order on Remand @$40.00/hour. COURT ANNOUNCES MAJORITY DECISION REACHED AS FOLLOWS: Tarrant County: Pltff-Intervenors Escalante plan adopted. Jefferson County: Wright-Pltff Intervenors Plan adopted. McLennan County: Wright-Intervenors Plan adopted. Travis County: Chapman-Wright Pltff Intervenors Plan adopted. Lubbock County: MALDEF Plan adopted. El Paso

County: MALDEF and Coleman Plan adopted. Nueces County: MALDEF Plan. Judge John H. Wood Dissents and will file Dissent Memorandum Opinion by Noon Firday, February 1, 1974. Majority Opinion filed Jan. 28 (hearing date). Ordered that filing deadline with County Clerk be restored to Feb. 4 '74.

1-28-74 176- MEMORANDUM OPINION AND ORDER (MAJORITY) FILED. Copy to Judges and Attorneys (Final Judgment) (Judges Justice & Goldberg)

1-28-74 177- Order Pursuant to Opinion (Majority) filed. Copy to Judges and Attorneys.

1-28-74 178- Order rescinding Order of Jan. 8, 1974 (which extended filing deadline for candidates for House of Reps. of State of Texas to Feb. 28) and restoring Feb. 4, 1974, deadline. Copy to attorneys, Judges, affected Bounty Clerks, Party Chairman LaRaza Unida and Democrat & Republican parties.

1-10-74 *179- Order entered signed by three judges authorizing payment of $2,133.00 to Court Reporter for hearing transcripts (Hearing of Dec. 3-5, 1973)

1-28-74 180- Witness list, filed.

1-28-74 181- Deft, State of Texas Exhibit list filed.

1-28-74 182- Wright Intervenor-Pltff Exh. List filed.

1-28-74 183- McLennan County Commr's Exhibit #1 filed (Plan) and Escalante #26-27.

1-30-74 184- Notice of Appeal, to Supreme Court of U.S. from Memorandum Opinion and Order entered Jan. 28, 1974, filed. Copy to 3 Judges, Clerk, U.S. Supreme Court.

1-30-74 185- MEMORANDUM OPINION ANDORDER (DISSENTING) FILED. (Judge John H. Wood) Copys mld.

1-30-74 186- TRANSCRIPT OF PROCEEDINGS HEARD DECEMBER 3-5, 1974, VOL. I, II, & III, filed. (Original and One copy filed)

2-5-74 CLOSED

2-7-74 187- Certified copy of Supreme Court Order (Justice Powell) staying execution and enforcement of District Court Judgement Order dated Jan. 28, 1974, pending further Order of Supreme Court filed. Copy to attorneys.

2-15-74 188- Letter from Clerk, Supreme Court advising, "The motions to vacate the stay heretofore granted by Mr. Justice Powell are denied. Mr. Justice Douglas dissents, filed.

2-21-74 189- Letter from Ass't Atty. Gen. advising Clerk unnecessary to transmit

Case file to Supreme Court unless requested by Clerk of that Court filed

4-23-74 190- RECORD OF PROCEEDINGS, ORAL HEARING ON PRESENTATION OF PLANS HEAR AT AUSTIN, JANUARY 28, 1974, filed.

7-5-74 191- MOTION FOR RELIEF FROM JUDGMENT filed by Attorney for Intervenors Charles Wright, et al. Copy to Judges.

REGESTER, ET AL.

V. A-71-AC-143

WHITE, ET AL.

(Full title omitted in printing; docket entries prior to June 22, 1973 omitted)

6-22-74 126- Transmittal letter and slip opinion from Supreme Court filed 25 days until the Judgement or mandate will issue, fld.

8-7-73 127- Judgment from United States Supreme Court (Certified copy) fil'd. Affirmed in part and reversed in part; remanded to the U.S. Dist. Court for Western Dist. of Texas for further proceedings in conformity with the opinion of Supreme Court. Copy to 3 judges.

9-17-73 128- Brief Regarding Further Issues to be Determined by the Court Submitted by Dallas Republican Intervenors (Samuel Kail, Et al), filed. Copy to Judges. (3) (Dallas Republicans were Intervenors in A-71-CA-143 and 144)

10-4-73 129- Order entered by Managing Judge Wayne Justice setting trial date of DEC. 3, 1973 at 9:00 a.m. at Austin. Order also grants all petitions for intervention pending before the panel.

10-18-73 130- Motion to Intervene in A-71-CA-142, 143, 144 & 145 only by Rosa Maria Gonzalez, Moreno, et al (one copy only filed in A-71-CA-142 Instr. #107) (Legal Defense Fund)

10-19-73 131- Motion to Intervene filed by Collis E. Cannon & Cleveland Nisby (all 7 cases) Dave Richards, attorney-filed in No. A-71-CA-142

11-6-73 132- Interrogs to Defts. fild by Pltff-Intervenors Charles Wright, et al (filed in A-71-CA-142)

11-13-73 133- Order setting Nov. 26 for briefs to be filed. Copy to attorneys & Judges (filed in A-71-CA-142)

11-13-73 134- Interrogs to Defts filed by Pltff Dr. Willeford & Pltff Intervr. Franklin R. Sears (filed in A-71-CA-142)

11-21-73 135- Motion to dismiss suit against Roy Orr, Chrmn of St. Democratic Exec. Comm- as improper party; if not dismissed, this Committee adopts all pleadings & briefs of Secy of State, State of Texas. Filed in A-71-CA-143 and A-71-CA-144) Placed in this file)

1-7-74 136- Letter signed by three Judge stating Pltfs & Intervenors proposed redistricting plans due 1-12-74 & Deft 1-18-74 (see paper A-71-CA-142)

1-8-74 137- Order signed by three Judge granting deadline for all candidates for representative to 6:00 P.M. 2-18-74 and county chairman to 2-28-74 to get list county clerk (see paper A-71-CA-142)

1-11-74 138- Legislative Redistricting Plan and Supporting Brief of Pltf.-Intervenors Gaskin, et al. (Legislative District 32) filed (see paper in A-71-CA-142)

1-11-74 139- Proposed plans of apportionment for Nueces & Lubbock filed (see A-71-CA-142)

1-11-74 140- Proposed plans of apportionment for Galveston, McLennan & Jefferson filed (see A-71-CA-142)

1-11-74 141- Proposed legislative district plan Travis County filed (see A-71-CA-142)

(See docket sheet A-71-CA-142 for all docket entries during rehearing.)

1-28-74 Majority Memorandum Opinion and Order (Judges Justice and Goldberg) filed.*

1-28-74 FINAL JUDGMENT ORDER PURSUANT TO MEMO, OPINION, FILED.

2-5-74 CLOSED

*Minority opinion (Judge John H. Wood, dissenting) filed in A-71-CA-142 only)

6-7-74 142- Supreme Court U.S. Order that the Court has PROBABLE JURISDICTION A-71-CA-143, 146 & A-73-CA-115 filed.

GASKIN, ET AL.

V. A-73-CA-146

WHITE, ET AL.

(Full title omitted in printing)

8-17-73 1- Complaint filed.

8-17-73 2- Motion to Consolidate (with A-71-CA-142, 143, 144 & 145), filed.

8-20-73 Summons issued. Summons, 285, Complaint and Motion to Consolidate to Marshal for service. (and Authorities in Support of Motion)

8-17-73 3- Authorities in Support of Motion to Consolidate, filed.

8-23-73 4- Summons re/ex-Secy of State-8/20/73-Atkinson, DUSM $3.00

8-23-73 5- Summons re/ex-Gov'r of Texas-8/20/73-Atkinson, DUSM $3.00

9-10-73 6- Amended Motion to Consolidate, filed (with A-71-CA-142, 143, 144 & 145).

9-10-73 7- Motion for Extension of Time to File an Answer filed by Defts.

9-12-73 8- Order extending to 10 days after pltffs file 1st amended compt. copy to attorneys.

9-27-73 Copy of Motion to Consolidate, Complaint and Amended Motion to Consolidate to Judges Goldberg, Justice and Wood, Jr.

9-28-73 9- Order CONSOLIDATING with A-71-CA-115 and 155 & A-71-CA-142, 143, 144 & 145. (John R. Brown, Chief Judge, 5th Circuit). Instruments docketed from this date on A-73-CA-115) Letters re this order are in this file. (for hearing only)

10-4-73 10- Order entered by Managing Judge Wayne Justice setting consolidated trial date of Dec. 3, 1973 at 9:00 a.m. at Austin. Order also grants all petitions for intervention pending before the panel.

10-19-73 11- Motion to Intervene filed by Collis E. Cannon & Cleveland Nisby. (In all 7 cases) Dave Richards Attorney-filed in A-71-CA-142 (#108)

10-25-73 12- Plaintiff's Amended Complaint, filed. Copy to Judges.

10-25-73 13- Deft's Original Answer to Amended Complaint, filed. Copy to Judges.

11-6-73 14. Interrogs to Defts. filed by Pltff-Intervenors Charles Wright (filed in A-71-CA-142)

11-13-73 15- Order setting Nov. 26 for briefs to be filed. Copy to attorneys & Judges (filed in A-71-CA-142)

11-15-73 16- Interrogs to Defts. filed by Pltff.

Dr. Willeford & Pltff Intervr.Franklin R. Sears. (filed in A-71-CA-142)

1-7-74 17- Letter signed by three Judge Pltfs & Intervenors have 1-12-74 & deft to 1-18-74 (see paper A-71-CA-142)

1-8-74 18- Order by three Judge filing deadline for representatives 6:00 P.M. 2-18-74 and county chairman 2-28-74 to get list County Clerk (see paper A-71-CA-142)

1-11-74 19- Legislative Redistricting Plan & Supporting Brief of Pltf-Intervenors Gaskin, et al. (Legislative District 32) filed. See paper A-71-CA-142

1-11-74 20- Proposed Plans Lubbock & Nueces (see A-71-CA-142)

1-11-74 21- Proposed Plans Travis Co (see A-71-CA-142)

1-11-74 22- Proposed plans Galveston, McLennan & Jefferson (see A-71-CA-142)

SEE DOCKET SHEET FOR A-71-CA-142 for all documents regarding rehearing held January 28, 1974)

1-28-74 Majority Memorandum Opinion and Order (Judge John H. Wood, filed in A-71-CA-142, only)

1-28-74 FINAL JUDGMENT ORDER PURSUANT TO MEMO. OPINION FILED.

1-30-74 NOTICE OF APPEAL, FILED. Copy to Judges & Supreme Court Clerk.

2-5-74 CLOSED JS-6-CARD Made.

6-7-74 23- Order Supreme Court U.S. has PROBABLE JURISDICTION filed (A-71-CA-143, A-73-CA-146 & A-73-CA-115)

CHAPMAN, ET AL.

V. A-73-CA-155

WHITE, ET AL.

(Full title omitted in printing)

8-28-73 1- Original Complaint filed. Summons issued. To Marshal with 285 and Complaint (2)

9-5-73 2- Summons ret/ex-Sec'y of State served 8-28-73-Atkison DUSM $3.00

9-5-73 3- Summons ret/ex-Gov. Drisco served 8-28-74-Atkison DUSM $3.00

9-17-73 4- Defs' Original Answer to Complaint, filed.

9-21-73 5- Order entered by Chief Judge John R. Brown, Fifth Circuit Court of Appeals, Consolidated this case with A-73-CA-115. Escalante, et al v. White, et al. Copy to attorneys. Copy in A-73-CA-115)

9-23-73 6- Deft's First Amended Answer, filed

9-28-73 7- Order of Chief Judge, 5th Circuit, Consolidating this case with A-73-CA-115, 155 and A-71-CA-142, 143, 144, 145, filed. Copy to all party attorneys (for rehearing only)

10-4-73	8- Order entered by Managing Judge Wayne Justice setting trial date of Dec 3, 1973 at 9:00 a.m. at Austin. Order also grants all petitions for intervention pending before the panel.
10-19-73	9- Motion to Intervene filed by Collis E. Cannon and Cleveland Nisby-in all 7 cases) Dave Richards attorney-filed in A-71-CA-142 #108).
11-6-73	10- Interrogs to Defts. filed by Pltff-Intervenors Charles Wright et al (filed in A-71-CA-142)
11-13-73	11- Order setting Nov. 26 for briefs to be filed. Copy to attorneys & Judges (fld in A-71-CA-142)
11-15-73	12- Interrogs to Defts filed by Pltff Dr. Willeford & Pltff Intervr. Franklin R. Sears. (filed in A-71-CA-142)
1-7-74	13- Letter signed by three Judge Pltfs & Intervenors have 1-12-74 & deft 1-18-74 to get any proposed redistricting plans (see paper A-71-CA-142)
1-8-74	14- Order by three Judge filing deadline for representatives 6:00 P.M. 2-18-74 & county chairman 2-28-74 to get list to County Clerk (see paper A-71-CA-142)
1-11-74	15- Legislative Redistricting Plan and Supporting Brief of Pltf-Intervenors Gaskin, et al. (Legislative District 32) filed. See paper A-71-CA-142

1-11-74	16- Proposed plan Lubbock and Nueces (see A-71-CA-142)
1-11-74	17- Proposed plan Travis (see A-71-CA-142)
1-11-74	18- Proposed Plans Galveston, McLennan, & Jefferson (see A-71-CA-142)
1-28-74	MAJORITY MEMORANDUM OPINION AND ORDER (Judges Goldberg and Justice, filed.*
1-28-74	FINAL JUDGMENT ORDER Pursuant to Opinion, filed.
1-30-74	Notice of Appeal, filed-3 Judges, copies & Supreme Court Clerk.
2-5-74	CLOSED JS-6 CARD

*Dissenting Opinion (Judge John H. Wood) filed in A-71-CA-142)

ESCALANTE, ET AL.

V. A-73-CA-115

WHITE, ET AL.

(Full title omitted in printing)

6-18-73	1- Original Complaint filed.
6-18-73	2- Motion to Consolidate (With A-71-CA-142, A-71-CA-143 & A-71-CA-144 & A-71-CA-145 under Rule 42(a), filed.
6-18-73	Summons, 285, Complaint & Motion to U.S. Marshal for service (& Auth. in Supp of Motion)
6-18-73	3- Authorities in Support of Motion to Consolidate, filed.

6-21-73 4- Summons ret/ex-Auth. Agt. for Gov. Briscoe served-6-19-73-Fisher DUSM $3.00

6-21-73 5. Summons ret/ex-Auth. Agt. for Sec'y St of Tex served 6-19-73 $3.00-Fisher DUSM

6-27-73 6- Letter from Judge Roberts to Judge Brown (Chief Judge, 5th Circuit) re determining if this case is 3-judge and whether or not it should be consolidated with Graves v. Barnes (A-71-CA-142, 143, 144, 145)

7-5-73 7- Exhibits to Original Complaint (inadvertently omitted) filed. Copies to Gov. and Secretary of State.

7-9-73 8- Motion for Extension of Time to File an Answer, filed.

7-12-73 9- Order granting defts Motion for extension of Time filed. Copies mailed to attys of record

7-17-73 10- Order granting three Judge Honorable Irving L. Goldberg, U.S. Court of Appeals, 5th Circuit and Honorable William Wayne Justice and Honorable Jack Roberts, filed. Copies mailed to all Judges and attys for both sides

7-23-73 11- Deft's Original Answer Mark White & Dolph Briscoe to Complaint filed

8-7-73 12- Motion to Intervene filed by Charles

Wright, Eddie Humphrey, David O. Green, Sr., Alfredo B. Jaimie, R. G. Halliburton, Raymond Scott, Oscar Sanchez, Louie Rosales, Edmundo Castillo, & Johnnie Henderson (Dave Richards, attorney)

9-5-73 13- Motion to Intervene filed by Franklin R. Sears, Rev. C.A. Holliday, Alan McNeill, Walter S. Smith, Jr., Harrell Z. Browning, Vincent Kemendo, Williams C. Davidson, Jr., Joe Summers, Jr., and C. B. Garcia, filed. Copy to judges.

9-21-73 14- Order entered by Chief Judge John R. Brown, Fifth Circuit Court of Appeals consolidating A-73-CA-155 with this case. Copy to attorneys. (For hearing only)

9-28-73 15- Order entered by Chief Judge John R. Brown, Fifth Circuit Court of Appeals, consolidating A-73-CA-115, 146 and 155 and A-71-CA-142-143, 144 and 145-copy to attorneys in all cases. (Docketing will be in this (A-73-CA-115 case) as well as filing of instruments) (For hearing only)

10-4-73 16- Order entered by Managing Judge Wayne Justice setting consolidated trial date of Dec. 3, 1973 at 9:00 a.m. at Austin. Order also grants all petitions for intervention pending before the panel.

10-19-73 17- Motion to Intervene filed by Collis E. Cannon & Cleveland Nisby (in all 7 cases) Dave Richards, Attorney-filed in No. A-71-CA-142 (#108).

11-5-73	18- Notice of Deposition of R. C. Johnson by Pltffs, filed. Copy to Judges.
11-5-73	18a- Notice of Deposition of Betty Fischer by Pltffs, filed.
11-6-73	19- Interrogs to Defts filed by Pltff-Intervenors Charles Wright et al (filed in A-71-CA-142)
11-13-73	20- Order setting Nov. 26 for briefs to be filed. Copy to attorneys & Judges. Filed in A-71-CA-142
11-14-73	20a- Notice of Deposition of Felix McDonald, filed by Attys for Defts Mark White, et al
11-15-73	21- Interrogs to Defts. filed by P[illegible]f Dr. Willeford & Pltff Intervr. Franklin R. Sears (filed in A-71-CA-142)
11-21-73	21a- Notice of Deposition of Tom Moore filed by Attys for Defts. Mark White et al
11-27-73	22- Oral Deposition of R. C. Johnson, filed (With exhibits)
11-27-73	23- Oral Deposition of Betty J. Fischer, filed (with exhibits)
11-27-73	24- Oral Deposition of Joyce Wendell Sifford, filed (with exhibits)
11-23-73	25- Motion for Leave to File an Amendment to Complaint (to litigate for lawful claim for attorney's fees) with proposed Order and proposed Amended Complaint att'd. Copy to Judges.
11-23-73	26- Trial Brief of Plaintiffs-Intervenors (Tarrant County, Dist. 32) filed. Copy to Managing Judge Wayne Justice.

12-1-73	NOTE: ALL SUBSEQUENT DOCKETING IN A-71-CA-142-(Trial held Dec. 3 thru Dec. 5) (second hearing held Jan. 28 1974)
1-28-74	27- MEMORANDUM OPINION AND ORDER (Majority, Judges Goldberg and Justice) filed*
1-28-74	28- FINAL JUDGMENT ORDER FILED
1-30-74	Notice of Appeal, filed. Copy to 3 Judges & Supreme Court Clerk.
2-5-74	CLOSED JS-6 CARD Made.
	*(Minority opinion (Judge John H. Wood, dissenting) filed in A-71-CA-142)
6-7-74	29- Order Supreme Court U.S. has PROBABLE JURISDICTION filed A-71-CA-143, A-73-CA-146 & A-73-CA-115

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

RECORD OF PROCEEDINGS

CURTIS GRAVES, ET AL VS. BEN BARNES, ET AL	)	CIVIL ACTION NO. A-71-CA-142
DIANA REGESTER, ET AL. VS. BOB BULLOCK, ET AL.	)	CIVIL ACTION NO. A-71-CA-143
JOHNNY MARRIOTT, ET AL., VS. PRESTON SMITH	)	CIVIL ACTION NO. A-71-CA-144
VAN HENRY ARCHER VS. PRESTON SMITH, ET AL	)	CIVIL ACTION NO. A-71-CA-145
FRANK A. ESCALANTE, ET AL. VS. MARK WHITE, ET AL	)	CIVIL ACTION NO. A-73-CA-155

JAMES GASKIN, ET AL,
VS.
MARK WHITE, ET AL
) CIVIL ACTION NO. A-73-CA-146

WANDA L. CHAPMAN, ET AL.
VS.
MARK W. WHITE, JR., ET AL
) CIVIL ACTION NO. A-73-CA-155

VOLUME I of 3
Pages 1 through 283

HEARD AT: AUSTIN, TEXAS

ON: DECEMBER 3-5, 1973

A P P E A R A N C E S:

HON. DAVID E. RICHARDS
Clinton & Richards
600 West 7th Street
Austin, Texas 78701

SEN. OSCAR MAUZY
8204 Elmbrook Drive
Dallas, Texas 75247

ATTORNEYS FOR INTERVENORS
CHARLES WRIGHT, ET AL

HON. R. JAMES GEORGE, JR
Graves, Dougherty, Hearon, Moody & Garwood
Austin National Bank Building
Austin, Texas 78701

ATTORNEYS FOR LOCAL AND STATE
REPUBLICAN PLAINTIFFS AND
INTERVENORS

HON. GEORGE J. KORBEL
501 Petroleum Commerce Building
201 North St. Mary's Street
San Antonio, Texas 78206

ATTORNEY FOR PLAINTIFFS
GONZALES, ET AL, AND
INTERVENORS MORENO, ET AL

HON J. PHILLIP CRAWFORD
P. O. Box 6277
Austin, Texas 78762

ATTORNEY FOR PLAINTIFFS
CHAPMAN, ET AL.

A P P E A R A N C E S (Continued):

HON. NORMAN M. BONNER, JR.
Suite 838-Baker Bldg.
7th & Houston Streets
Fort Worth, Texas 76102

HON GEORGE MARTINEZ
934 - (Suite)
555 Griffin Square
Dallas, Texas 75201

ATTORNEYS FOR PLAINTIFFS AND INTERVENORS GASKIN, ET AL.

HON. CHARLES E. WILLIAMS III
10 Columbus Circle
New York, New York 10019

HON. DON GLADDEN and
HON MARVIN COLLINS
702 Burk Burnett Bldg.
Fort Worth, Texas 76102

ATTORNEYS FOR PLAINTIFFS AND INTERVENORS FRANK A. ESCALANTE, ET AL.

HON LARRY F. YORK
HON. ELIZABETH LEVATINO
HON. TOM BLACK
Assistant Attorney General
P. O. Box 12548
Austin, Texas 78711

ATTORNEYS FOR THE DEFENDANTS

BE IT REMEMBERED that heretofore on the 3rd day of December, 1973, before a panel composed of the HONORABLE IRVING L. GOLDBERG, Judge, U.S. Court of Appeals, Fifth Circuit, HONORABLE WILLIAM WAYNE JUSTICE, United States District Judge, Eastern District of Texas, and HONORABLE JOHN H. WOOD, JR., United States District Judge, Western District of Texas, the above consolidated Civil Actions came on to be heard, at which time the following proceedings were had:

AUSTIN, TEXAS

DECEMBER 3, 1973

FIRST DAY OF TRIAL

JUDGE GOLDBERG: I think it would be really carrying coals to Newcastle or cases, wherever they're carried, to give the numbers and the styles of the cases. I think everybody knows we're here in consolidated hearing on seven cases, involving legislative redistricting.

In accordance with my custom when I sit on three-judge courts, I turn over the housekeeping and managing details to the managing judge, in this case Judge Justice, and I'm going to let him set the ground rules that we have discussed and

which have evolved in discussion with Counsel and correspondence with Counsel.

Judge Justice, I'll let you manage it.

JUDGE JUSTICE: Thank you, sir.

I think it is in order, first of all, that we see who is here and who represents each of the parties.

Would the Plaintiffs in the case please identify themselves and identify for the record who it is they represent?

Mr. Richards?

MR. RICHARDS: David R. Richards of the law firm Clinton & Richards of Austin, Texas, and appearing here on behalf of the Intervenors, Charles Wright, et al, who have filed and been received as Intervenors in the original action, the Regester action, as well as the Escalante action.

My Plaintiffs challenge the at-large districts in each of the state's nine multi-member districts. Mr. Oscar Mauzy of Dallas is appearing with me in that regard.

MR. GEORGE: My name is R. James George, of the firm of Graves, Dougherty, Hearon, Moody & Garwood. I represent the Republican Plaintiffs and

Intervenors in this cause, originally Dr. George Willeford and Intervenors Frank Sears, et al.

MR. KORBEL: My name is George Korbel. I am with the Mexican-American Legal Defense and Educational Fund. We represent the original Plaintiffs Gonzales, et al, and the Intervenors Moreno, et al. We're appearing in all these cases except for Jefferson County today.

MR. CRAWFORD: J. Phillip Crawford, and I represent the Plaintiffs in an original action, independent proceeding Chapman versus White, which has been more recently consolidated. Our interest in this proceeding is limited to Travis County.

MR. BONNER: I'm Norman Bonner, Jr., of Fort Worth, of the firm of Mitchell & Bonner. I represent Plaintiffs-Intervenors Gaskin, et al. Our interest is restricted to Tarrant County. This is my associate, Charles Williams, of the N.A.A.C.P. Defense Fund, New York; George Martinez, Dallas, Texas.

MR. GLADDEN: My name is Don Gladden. I am here on behalf of Plaintiffs Frank A. Escalante and others in Cause No. 73-CA-115. They are also Intervenors in the original suit heard in this Court. I am associated with Mr. Marvin Collins of

my office who will be here also in connection with that case. Our primary concern is the Tarrant County multi-member district.

JUDGE JUSTICE: These other gentlemen that are there with you?

MR. LEWIS: Gibson Lewis. I'm a witness for the State.

JUDGE JUSTICE: Does that take care of all the Plaintiffs and Intervenors?

All right, the Defendants?

MR. YORK: Larry York, Your Honor, Elizabeth Levatino, Tom Black and I represent the Defendant Governor Briscoe, and the Secretary of State, Mark White, who is here in the courtroom with us.

I would--I don't know if this is the time to raise it or not, but Mr. Korbel's statememt that they had attacked the districts in all but, I believe Jefferson County--I'm not clear on the pleadings. It would appear from our reading of the pleadings subject to correction that the MALDEF group have not filed pleadings attacking the districting situation in Hidalgo County or in Nueces County. If I have misread that, then we stand corrected.

MR. KORBEL: Well, the original Plaintiffs,

Bernal, et al, did have Plaintiffs in Hidalgo County and Nueces County, and rather than unnecessarily burden the Court with additional pleadings, we were just going under those same pleadings.

JUDGE JUSTICE: Well, in order that there may be no question about who it is you represent in what actions, with the concurrence of the Court, you will be permitted to amend and make them parties in all actions.

MR. KORBEL: Thank you.

MR. YORK: Thank you, Your Honor.

JUDGE JUSTICE: There is one housekeeping detail that needs to be taken care of. The motion to file an amicus curiae brief in behalf of the Texas Women's Political Caucus will be granted.

In pretrial discussions with the various attorneys representing some of the parties, it has been brought to the attention of the Court that the parties are in agreement, and if I have been misinformed about this, of course, I will expect that you will correct me, but I have been informed that the parties are in agreement that all evidence relating to the Tarrant County case will be presented first, both from the standpoint of the Plaintiffs and Intervenors and the Defendants.

Following the resolution of the evidence in the Tarrant County case, we then move to all the remaining counties. As I understand it, the Plaintiffs and Intervenors propose to present all evidence relating to all of the remaining counties consecutively, whereas, it is the desire of the State of Texas that each county be taken separately, that evidence relating to that particular county be presented by the Plaintiffs and then there be an opportunity by the State to present evidence relating to that county and then moving on to another.

Have I correctly stated the proposition or the agreement?

MR. YORK: Yes, sir.

JUDGE JUSTICE: Or rather what the arguments are, I should say. Am I correct in that?

MR. YORK: Yes, sir, I believe that's correct.

MR. RICHARDS: May I say it would be impossible for us to proceed that way.

JUDGE JUSTICE: The Court has engaged in a discussion relating to this matter and have expressed a preference to go forward with the evidence relating to all counties at one time.

This is in view of the fact that a large portion of the evidence, in any event, is going to be by deposition, and we don't feel that we will be unnecessarily confused, because we can organize this material after the conclusion of the case.

It has been brought to the attention of the Court that as of 15 minutes till 9:00 this morning, the Plaintiffs and Intervenors had not made a deposit required by the Court. Has that been done?

MR. KORBEL: Your Honor, I can speak for my office. All of our bookkeeping goes on in San Francisco, and I talked to them on Thursday and again on Saturday, and it will be wired to the Court today and should be received by the Clerk today.

MR. GEORGE: I represent the Republicans, and our deposit for one-third of Plaintiffs' share was made seconds ago.

JUDGE JUSTICE: That accounts for two-thirds. What about the remaining Plaintiffs?

MR. RICHARDS: The remaining third will be negotiated during the day, I hope.

JUDGE JUSTICE: Well now, is this an assurance or a hope?

MR. RICHARDS: Oh, it will be covered, Your

Honor, before the case is over, before we conclude the proceedings here, certainly, Your Honor.

JUDGE JUSTICE: All right, Counsel.

MR. KORBEL: May I speak? On Saturday I talked to Nathan Eason, who represented the original Plaintiff, Van Henry Archer, in the San Antonio Republican case, and he told me that if all the money details were taken care of by the active parties in this case that he wouldn't approach his clients for additional money, but that should we run short, he would approach his clients, and he wanted the Court to be assured of this.

JUDGE JUSTICE: I think the Court has already ruled against his clients in the case, in any event, so I don't see that he has any remaining interest in it. I can understand his reluctance to advance any more money.

Now, some of the Plaintiffs and some of the Intervenors have given their exhibit lists to the Clerk. Some have failed to do so.

Will the Clerk please announce who is in error or who has fallen down?

CLERK OF THE COURT: I have not received any.

JUDGE JUSTICE: You have not received any?

The order of the Court was that the parties were to furnish each other with witness lists together with a summary of the qualifications of each of the expert witnesses. Has that been done?

MR. RICHARDS: It has, Your Honor, and we have tendered to the State an inspection of all of our exhibits, but Mr. Korbel and I and Mr. George and Mr. Crawford, and my exhibit list is currently being typed and will be available before we start putting on any evidence today.

JUDGE JUSTICE: Are your exhibits marked?

MR. RICHARDS: Mine are marked.

It's simply a matter of typing up the list.

JUDGE JUSTICE: Well now, we're not going to take time in this trial to wait for someone to mark an exhibit.

MR. RICHARDS: Oh, mine are marked.

JUDGE JUSTICE: We will expect that all of them will be marked and that you will furnish forthwith everyone a list of your exhibits to be filed with the Clerk during the first recess, if you haven't already done it.

MR. GLADDEN: Please the Court, we do have our exhibits. All exhibits have been exchanged with the State, copies of all of our exhibits have

been furnished to the State. We have not prepared -- we have furnished the witness list to the State. We have not prepared a narrative of qualifications of the expert witnesses. Each of their depositions have been taken, and their qualifications were developed in those depositions, and the State is aware of their qualifications. We apologize for not having the summary of the qualifications ready for the Court at this time.

JUDGE GOLDBERG: You understand this Court is going to have to examine exhibits and depositions that are on file at the end of this trial. You all can exchange among yourselves and have a very nice time at this, but we're going to be sure that the Clerk has in her possession the exhibits and the depositions that we're supposed to be reading when we decide this case.

Does everybody understand this?

MR. GLADDEN: We understand, Your Honor.

JUDGE JUSTICE: The Court feels it is well aware of the points in issue in the cases before us, so we're going to limit the opening statements to five minutes. The Tarrant County Plaintiffs may proceed. Please come to the lectern.

Incidentally, the Clerk necessarily is going

to have a great deal of difficulty -- or rather, the court reporter is going to have a great deal of difficulty in identifying who these various speakers are, so if you rise to make some statement or make an objection, please call your name off for her benefit.

TARRANT COUNTY PLAINTIFFS' OPENING STATEMENT

MR. GLADDEN: Please the Court, my name is Don Gladden. I am attorney for Frank Escalante, et al, in the consolidated cases and in Case No. 73-CA-115.

Our petition speaks for itself. We are attacking the constitutionality of the multi-member district in District 32 of the State of Texas, wherein there are nine members elected at large under the place system. It is anticipated that this attack will turn on not only ethnic minority suppression but economic minority suppression, and we will hope to show the Court that the effect of the multi-member district in Tarrant County crosses so as to deny representation or effective representation not only to ethnic minorities but to economic minorities, both at each and

of the economic spectrum in Tarrant County.

Mr. Bonner also is representing some Tarrant County Plaintiffs, and I will yield the rest of the time to Mr. Bonner.

MR. BONNER: Please the Court, I am Norman Bonner, Jr., of Fort Worth. I am also representing a group of Tarrant County residents who are challenging multi-member legislative electoral system as it applies to Tarrant County. Our issues are virtually the same as those of Mr. Gladden. Our focus is on the diluting effect that the system has on minority votes. Our emphasis is primarily on the ethnic aspect of the case, and with that brief statement, I'll yield the podium also.

MR. GEORGE: My name is Jim George. I represent the Republican Plaintiffs in Tarrant County, and we will not present any live testimony in this cause at this time.

JUDGE JUSTICE: Thank you. You may proceed with your evidence then.

MR. GLADDEN: Beg your pardon, Your Honor?

JUDGE JUSTICE: You may proceed with your evidence.

MR. RICHARDS: Could we be excused? I have to prepare witnesses. Could I be excused while the

Tarrant County evidence is being offered?

JUDGE JUSTICE: Yes.

MR. GLADDEN: Please the Court, at this time I would like to call to the attention of the Court that we have filed a motion for leave to file an amendment relative to attorney's fees. We would like to ask the Court to afford us that opportunity.

JUDGE JUSTICE: Very well.

MR. GLADDEN: Thank you, Your Honor.

At this time, Your Honor, we would like to offer into evidence and have talked with the State of Texas relative to the procedure that we are to follow in terms of getting the evidence into the record. We would like to tender a significant number of exhibits with the understanding that if they have not already been proved up by deposition that we will come forward with the proof at the appropriate time, but rather than take the time to hand them to the witness, the State has been kind enough to afford us the privilege of putting them in at the beginning of the trial. At this time we would like to offer the following exhibits which are in and affixed to the depositions.

We would like to offer Plaintiff Escalante's Exhibit 2(a), which deals with Tarrant County census information prepared by the Department of Commerce, 2(b), which is also census information affecting Fort Worth metropolitan area. 3(a) through (i) which are voter applications of the present members of the Legislature. No. 4, which is ballots of the Democratic primary from 1960 through 1972 with the exception of '64 and '68 where there are tally sheets.

No. 5, which is a list of the Republican candidates from 1960 to 1972. In each instance when I make reference to this---.

JUDGE JUSTICE: Well now, have you got all your exhibits listed there?

MR. GLADDEN: Yes, Your Honor.

JUDGE JUSTICE: Why don't you just move their admission, instead of going through each one individually?

MR. GLADDEN: All right. We move the admission of Plaintiff Escalante's deposition exhibits 2(a) through 18(e), Your Honor.

JUDGE JUSTICE: All right. Is there objection?

MR. YORK: May I have just a moment, Your

Honor? I haven't seen this particular list.

JUDGE JUSTICE: Yes sir.

(REPORTER'S NOTE: Counsel for Defendants examine exhibit list.)

MR. YORK: Your Honor, we have no objection to the list of exhibits offered by Counsel, except for Exhibits 16 and 17, which purport to be selected newspaper clippings from the Fort Worth Star Telegram and Fort Worth Press. We would object to those on the basis that they are hearsay and we contend irrelevant to any issues before this Court.

JUDGE JUSTICE: Well, when the exhibits are offered or when reference is made to these particular exhibits, please renew your objection at that time so that we can see how it is in the context of the case.

MR. YORK: All right, sir.

JUDGE JUSTICE: All other exhibits are received in evidence.

(PLAINTIFF ESCALANTE'S EXHIBITS NOS. 2(a) through 18(e) were previously marked for identification)

MR. GLADDEN: In addition to those exhibits Your Honor, we would like to offer as new exhibits---.

JUDGE JUSTICE: What do you mean new exhibits?

MR. GLADDEN: These were exhibits that were offered at the time of the depositions, Your Honor, and I thought it would be easier for the State to make their objections, since they say those at the depositions, so I am offering them in three packages, actually.

JUDGE JUSTICE: All right, go ahead.

MR. GLADDEN: We would like to offer Plaintiff Escalante's Exhibit O, Plaintiff Escalante's Exhibit 1(a) through (e), which is a map that we previously furnished, Escalante's Exhibit No. 22, some additional slate cards, and Plaintiff's Exhibit No. 21, which are additional newspaper clippings, and 19 and 20, which are leaflets that were generally circulated. We would like to tender those in evidence.

JUDGE JUSTICE: Is there objection?

MR. YORK: Your Honor, I understand that

there is a group of newspaper clippings in this. We will have the same hearsay and relevance objections that we have earlier expressed, which we can urge later.

JUDGE WOOD: Is that to 21?

MR. YORK: I believe that's correct.

MR. GLADDEN: Yes.

JUDGE JUSTICE: Well, as I understand the law, the Court in a non-jury case ordinarily will just overrule all objections, and you'll just have to leave it to us to not consider it if we decide it is not admissible, so your objections as to all this about the newspaper articles will be overruled. If we find them to be irrelevant, they will not be considered.

MR. YORK: I hope the Court won't be offended if to preserve the record we make our objection.

JUDGE JUSTICE: Certainly, your objection will be noted.

MR. GLADDEN: Please the Court, we're not offering them for the facts of the articles themselves, but to show the racial attitude of the community, rather than the facts themselves.

MR. YORK: I would make one objection, Your Honor, to the use of the map which, I believe, is

at least insofar as it purports to set out the plan Mr. Gladden's group proposes to the Court. As we understand it, this part of the procedure is not for the consideration of the plans, but rather considering whether or not the present multi-member situation is unconstitutional. If the plan if offered for the limited purpose to show the Court that it might be feasible to draw up another sort of plan, we would have no objection to it, but as far as the merits of the plan itself, we would object to it.

MR. GLADDEN: May it please the Court, I would like to respond to that. This portion of the map that we're offering at this time does not relate to the plan. We do anticipate seeking to furnish the Court with the plan for two purposes, but we have reserved three exhibits that would go to the question of the plan and will offer them at that time, rather than at this time, at which time we would like to explain to the Court why we feel like the plan is essential at this part of the lawsuit or at the stage we do tender and offer the plan.

JUDGE JUSTICE: The various exhibits mentioned by Counsel are received in evidence.

Do you have another list of exhibits?

MR. GLADDEN: Just a moment, Your Honor. I'll see.

(PAUSE)

JUDGE JUSTICE: Let's move forward, Counsel.

MR. GLADDEN: At this time, Your Honor, we would like to offer in evidence a stipulation by and between the law offices of Don Gladden and the Attorney General's Office, representing Defendants, relative to Plaintiff's Exhibit 1 and zero, establishing the lines that presently exist of District 32.

At this time we would like to call---.

JUDGE JUSTICE: One moment.

Mr. Bonner, do you have any exhibits to offer?

MR. BONNER: No, Your Honor, we have no exhibits to offer.

MR. GLADDEN: We do have an addition to that, Your Honor, additional exhibits, No. 1(a) prime through 3 and 9 prime, which are summary exhibits which will be used by the expert witnesses when they testify relative to the statistical data.

JUDGE WOOD: What is the exhibit number?

MR. GLADDEN: Exhibit No. 1(a) prime. Now

the reason we numbered them this way is because they relate to the other evidence that's gone in. This is a compilation of the census information.

JUDGE WOOD: Compilation and summary?

MR. GLADDEN: Yes. They are prime exhibits as they relate to that. We have attached for the benefit of the Court three copies of the prime exhibits, because it will be dealing with figures, rather than other evidence.

JUDGE JUSTICE: Is there objection to the prime exhibits?

MR. YORK: We have no objection to the prime exhibits, Your Honor.

THE COURT: They will be received in evidence.

MR. BONNER: Please the Court---.

JUDGE JUSTICE: Yes, sir.

MR. BONNER: In response to your question I said we had no exhibits to offer. We do have an exhibit to offer in connection with our plan, but in terms of offering an exhibit to the facts of the lawsuit I'm sure Mr. Gladden has done a sufficiently thorough job that it behooves us to avoid duplication, so we would defer preparing exhibits for trial.

JUDGE JUSTICE: Thank you.

MR. COLLINS: May it please the Court, I am Marvin Collins, attorney for Plaintiff Escalante associated with Mr. Gladden, and at this time to expedite the trial, we would like to present to the Court a motion to take judicial notice of the testimony given at the former trial of the case of Graves versus Barnes, and our purpose in doing so, we realize it has already been consolidated. Our purpose in doing so is simply to protect the possible appellate record in the case in order that if there is any technical objection to whether that evidence in that case is still alive, that if this Court receives an omnibus offer of the evidence presented in that case, then the record, I think, will be protected in the new cases. I have furnished the State with a copy of this motion.

JUDGE WOOD: In other words, Mr. Collins, what you want to do is have us to be in a position to consider all the evidence and testimony adduced at the first trial?

MR. COLLINS: Yes, sir, Your Honor.

JUDGE WOOD: Where it is applicable to this case?

MR. COLLINS: That's correct, Your Honor.

and in addition to that, not just by way of the fact that it is consolidated with that case, but actually we are tendering and offering, if we can, that evidence at this time, or in the alternative we're asking that this Court take judicial notice of it since it is the same three-judge court, and the parties basically are lined up the same way. The same Plaintiffs are not here to some extent, but all of the relevant considerations for admission or testimony given in the former trial, I think, are present, except for the fact that the witnesses then and the evidence then are available now. However, this Court did enter an order with respect to the depositions in that regard so that that is not an objection to our deposition testimony. I feel like it is appropriate here, too.

JUDGE WOOD: Isn't that such a shotgun approach to this thing, and isn't it going to make this recond so monumentally large that it is going to be difficult to send it up the Supreme Court if you make every part of the original transcript a part of this record? Isn't that too much? Shouldn't it be limited to only that which is applicable to this case?

MR. COLLINS: Perhaps for purposes of

convenience, there is a justification, Your Honor, for admitting it, and that is, I feel like it will permit the Court to consider all of that evidence and will permit an appellate court to consider all of that evidence in support of whatever this Court decides, and I feel like since the record was made, it is something which would expedite the Clerk's transcript on appeal.

MR. KORBEL: May I speak, Your Honor, for Dave Richards---?

JUDGE GOLDBERG: We can't hear you.

JUDGE JUSTICE: Let me say something.

Everyone on this side of the room raise your voice to about twice your normal volume.

MR. KORBEL: If I might speak for David Richards, one of his exhibits -- one of our exhibits is going to be an appendix, which was offered the Supreme Court in this case, which includes the testimony and substantial parts of the depositions, and I believe that this is the appendix that will facilitate the Court's use of this previous record.

JUDGE GOLDBERG: Is that all of the testimony in the---?

MR. KORBEL: Yes, sir, it's the entire testimony.

JUDGE GOLDBERG: In the original case?

MR.KORBEL: And substantially all the depositions.

JUDGE GOLDBERG: What do you want?

MR. KORBEL: Your Honor, I was not aware of that, and if I may file my motion, I think that will take care of it.

JUDGE GOLDBERG: Thank you.

JUDGE JUSTICE: All right, let's proceed with some evidence here.

MR. GLADDEN: We would like to call Mr. R. C. Johnson.

JUDGE JUSTICE: Come forward, Mr. Johnson.

MR. YORK: We would like to raise a matter partly just for the guidance of the Court and partly by way of objection. Mr. Johnson's deposition was taken in Fort Worth along with the depositions of two or three others who, I understand, Mr. Gladden intends to call. These depositions were taken fully by our side, and it seemed to us a full direct examination by Mr. Gladden. Ordinarily, one would not object to a witness testifying from the witness stand whose deposition has been taken,

but in view of the limited time we all have in this case and in view of the fact that we may well have similar problems with our own witnesses, we would like, I think, to make an objection to the duplication which I understand will come, because I know they intend to offer the depositions. We intend to object to it as repetitious and then to ask the Court's guidance about what all of us should be doing in that regard.

(REPORTER'S NOTE: The Court confer out of the presence and hearing of the court reporter.)

JUDGE GOLDBERG: Let me see if I can make a suggestion here. First of all, you know we are under a deadline. We're going to try in this case, as we did last time, to come out with whatever we come out with way in advance of the filing for the position. That's the first thing I want to say. And we've got to have cooperation. Up to now we've gotten it a hundred percent, Judge Justice assures me, and from what I have seen that is certainly true. It seems to me that all of the depositions ought to be offered, and you use your live witnesses

just as supplementary material or to attack it, but let's don't have a repetition of everything that is in the depositions, and I think that is your position, is it not, Mr. York?

MR. YORK: Yes, sir, that's correct.

JUDGE GOLDBERG: Is there any objection to that?

MR. GLADDEN: No. Your Honor. What we anticipate doing in this connection -- we certainly will offer the depositions. We do want to identify the witness at least sufficiently so the Court is acquainted with who it is, and that, of course, will be repetition, because he was identified in the deposition, but insofar as the material evidence as to the course of this lawsuit, mose likely anything offered will be new evidence.

JUDGE GOLDBERG: We could survive a minimum of repetition, but a minimum is a minimum.

MR. GLADDEN: I appreciate that, Your Honor.

JUDGE GOLDBERG: Proceed.

JUDGE JUSTICE: All right, raise your hand and be sworn.

R. C. JOHNSON

a witness called by the Tarrant County Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. State your name for the Court, please.

A. R. C. JOHNSON.

Q. Mr. Johnson, I'll ask you if you are the same person who has testified in this case earlier by deposition.

A. Yes, I am.

Q. And you reside in Tarrant County. Is that correct?

A. Yes, I do.

Q. And Fort Worth?

A. Yes.

Q. And you have previously in your deposition identified yourself as President of the Tarrant County

Precinct Workers Council. Is that correct?

A. Yes.

Q. And that is a black organization of primarily precinct charimen who are black and who hold office in the Democratic primary?

A. Yes.

Q. At the time of your deposition you were asked by the State -- first of all, at the time of your deposition you identified certain slate cards as being cards which were distributed and circulated by your organization primarily in the black comminity so as to acquaint the community as to who your organization was supporting. Is that correct?

A. Yes.

Q. At that time the State asked you if you could locate and find additional slate cards that showed your endorsement and support of legislative candidates. Is that correct?

A. Yes.

Q. Have you located some of those?

A. Yes.

Q. Had you located them at the time you signed your deposition?

A. No, I had not.

MR. GLADDEN: May I approach the witness?

JUDGE JUSTICE: Yes

Q. Mr. Johnson, I have handed you Plaintiff Escalante's Exhibit 22, and I would like to ask you if those are the additional slate cards that you have located.

A. Yes, they are.

Q. And those do reflect your organization's endorsement for several years. Is that correct?

A. Yes.

Q. On several elections?

A. Yes.

Q. Would you tell the Court the manner that those items were circulated?

A. Well, these are slate cards which were given out from door to door by the precinct workers within each precinct.

Q. And these slate cards are similar to or were used in the same manner as those slate cards you identified in your deposition. Is that correct?

A. Yes.

Q. In that connection one of your exhibits there shows on the back of it a list of persons who composed the precinct chairmen that were endorsing those candidates, does it not?

A. Yes.

Q. And I'll ask you whether or not each of those

persons are black and are members of the precinct workers council.

A. Yes.

Q. None of the earlier slate cards or door knockers that were distributed identified names in terms of more than one person distributing. Is that correct?

A. Yes.

MR. GLADDEN: I believe that's all, Your Honor. Pass the witness.

JUDGE JUSTICE: Is there cross-examination?

MR. YORK: Your Honor, we have no objection to those exhibits, and I believe we fully covered the cross-examination on deposition and we do not have further cross-examination at this time.

JUDGE GOLDBERG: Thank you very much.

MR. GLADDEN: Please the Court, at this time we do offer all of Mr. R. C. Johnson's deposition.

JUDGE JUSTICE: It will be received in evidence.

MR. GLADDEN: I would like to call Mr. J. W. Sifford.

(WITNESS STANDS ASIDE.)

MR. YORK: Your Honor, I believe that most of the depositions that were taken were taken with the agreement of Counsel that all objections would be made at that time. There are objections within the depositions, which we won't attempt to urge now, but they are as a matter of record in the depositions.

JUDGE GOLDBERG: Then we will consider them as we read the deposition.

J. W. SIFFORD

a witness called by the Tarrant County Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. State your name to the Court please.

A. My full name is Joyce Wendell Sifford.

Q. You are the same person who has previously testified in this case by deposition, are you not,

Mr. Sifford?

A. That is correct.

Q. In that connection you identified yourself in the deposition as being for many years active in Labor Union politics or in politics relative to Labor Unions in Fort Worth. Is that correct?

A. That's correct.

Q. And on most of the last few years you have been president of the Central Labor Council, which is a labor organization or a structure in which most of the labor organizations in Tarrant County participate. Is that correct?

A. That's correct.

Q. And is one of the functions of that organization politics, and particularly legislative politics?

A. Right.

Q. Now, in that connection I'll ask you, Mr. Sifford, if you have had occasion to know as to the expense and the cost of campaigning or running an election for the Legislature in Tarrant County or more recently in District 32?

A. Yes, I have.

Q. I'll ask you whether or not you have had occasion to know whether or not there are moneys spent in connection with political campaigns in Tarrant County and

in District 32 that do not find its way onto the expense report of candidates in the Legislature.

A. Yes, I would say that there is considerable.

Q. Can you give the Court some instances to your knowledge as to this type of expense that have gone into campaigns that were not---?

A. One example would be like our own organization, Tarrant County Labor Council. We put out slate cards. We put out brochures. We put out mailings to our members, which has run as high as 35,000 pieces of mailing. This wouldn't be for an individual candidate but for a slate of candidates. To my knowledge there are many organizations in the county who, similar to Mr. Johnson's organization and our organization, and many so-called special interest groups, do do considerable for candidates which the candidates have no knowledge or very little knowledge, and so there is no way the candidate could report expenditures of this nature, and so this certainly would not be shown in the reported expenditure of candidates.

Q. In that connection, Mr. Sifford, do you have an awareness as to whether or not the slated candidates, those that have been slated by special interests with other prospective candidates, would have a greater expense or would show less reported but a greater expenditure of money on their behalf?

A. I would think that this would be true.

Q. If an independent candidate who was spending money himself, as opposed to the slating process, his would be more calculated to reflect more accurately his expenditures. Is that correct?

A. I believe so.

Q. Also I'll ask you, Mr. Sifford, if you have an opinion as to whether or not there is a cumulative effect of campaigning, that is, an incumbent or person who has run for public office prior to the particular campaign. Do you have an opinion?

A. Yes. Of course, I don't want to get into a long lecture. I think the Court is somewhat familiar and most of the people here with politics, but briefly the job of getting elected to the House of Representatives is mostly a question of name exposure, and to win an election a candidate must have their name before the public, and this is where the greatest expenditure comes in. A candidate who has never ran before has no public exposure before, as opposed to, for instance, Mr. Sherman, one of the Tarrant County delegation, who was a television personality for many years before he became a member of the Legislature, and since this time has served several terms. A person of that nature would have considerably less expenditure, because he has, as you said, cumulative effect over the years of not only political

exposure, but before that professional exposure through the medium of television, and so, certainly, as the years go by and you get greater public exposure, certainly your expenditures for this sort of thing, which is the main expenditures that a candidate has, on a State Representative would tend to lessen.

Q. As between an unknown and an incumbent who has had exposure, the relative cost of the campaign would vary significantly, would it not? In District 32, Tarrant County.

A. Very muchly so.

MR. GLADDEN: May I approach the witness?

JUDGE JUSTICE: Yes.

Q. I hand you what had been identified as Plaintiff Escalante's Exhibit No. 20. That is a copy of a leaflet. Do you recognize that?

A. Yes, I do.

Q. I'll ask you to state whether or not that is a copy of a leaflet that was used in 1970 State Senate campaign in Tarrant County.

A. Yes, District 10.

Q. District 10 is composed of the northern portion of Tarrant County---?

A. Right.

Q. ---and a significant part of District 32

Legislative District?

A. At that time it was a primary part of Tarrant County.

Q. And it also encompasses a substantial part, in fact, the biggest part of District 32 presently, does it not?

A. That is correct.

Q. I'll ask you whether or not to your knowledge that item was circulated on behalf of the incumbent State Senator?

A. Yes, it was. I know personally, because I helped to stuff several hundred of these in an envelope that were sent out, and I received one of them at my house. The area where I live, which is Hurst, a middle-class suburb of the county, and similar precincts were where these were sent.

Q. In that connection I'll ask you whether you are familiar with the results -- this was sent out in the second primary. Is that correct?

A. Yes.

Q. And the first primary are you aware of how the State Senator ran in the basically white precincts?

A. Yes, sir, Senator Don Kennard who was the incumbent, trailed by 4,000 votes to Joe Shannon, Jr., who was his major opponent. He led the first primary. In fact,

Senator Kennard barely did get into the runoff, but in the runoff Senator Kennard was re-elected, and, as I recall from reading the newspaper, the returns in the newspapers, most of these all-white precincts where this piece of literature was sent was reversed from whereas Mr. Shannon had carried them in the first primary, Senator Kennard carried them in the second primary.

Q. This was after the mailer went into the white precincts. Is that correct?

A. Yes.

Q. And that is Plaintiff's Exhibit 20 that you have reference to?

A. That's right.

MR. GLADDEN: All right, we pass the witness.

JUDGE JUSTICE: I would like to see Plaintiff's Exhibit 20.

(REPORTER'S NOTE: Court examine exhibit.)

JUDGE JUSTICE: Is there objection to Plaintiff's Exhibit 20?

MR. YORK: We have no objection to it, Your Honor.

JUDGE JUSTICE: It is received in evidence.

MR. GLADDEN: At this time, please the Court, we would like to offer Joyce Wendell Sifford's deposition into evidence.

JUDGE JUSTICE: It will be received in evidence.

MR. GLADDEN: We'll call Mr. John Dillard.

JUDGE JUSTICE: Wait just one momemt. Is there cross-examination of this witness?

MR. GLADDEN: Oh, I'm sorry, Your Honor.

MR. YORK: We're in favor of having an abbreviated procedure, Your Honor, but---.

MR. GLADDEN: I thought he had made all of his objections during the deposition.

CROSS-EXAMINATION

BY MR. YORK:

Q. Mr. Sifford, with regard to the exhibit which was offered, which apparently took issue with Mr. Shannon's vote on the anti-busing resolution in the Legislature of this state, is it a fact that you helped send that particular flier out to precincts and people within Tarrany County?

A. Yes.

Q. I take it that was not just an individual effort on your part, but one done as a part of your organizational responsibilities in the Union activities?

A. It was a part of the campaign, not of the Union but of the campaign of Senator Kennard.

Q. Well, were your efforts in that regard made just J. W. Sifford personally kind of working at home at night, or was it done as part of your official activities?

A. It was done as part of the official activities. It was a case where we all got together in a place and, as happens many times in getting out political mailings, a number of people came to this place, and we all worked and stuffed the mailers.

Q. If we're to believe the papers and what we see on television, at least, this kind of thing has gone on, at least in the highest levels of national politics?

A. Well, I don't know what you're referring to as this sort of thing. This was a vote that Representative Shannon made, and that was on the record, so it was put out to the people. Representative Shannon did not deny that he made this vote. He did make the vote.

Q. I presume that this picture of two little children praying was not in the record of the Legislature?

A. Well, I wasn't present when the bill was

passed at the Legislature, but I would assume that that is a correct statement.

Q. As far as I understand it, this Exhibit is offered to in some way show the attitudes of people in Tarrant County toward minorities?

A. Do you want me to answer as to what the intent is?

Q. Well, sure, if you have a different idea about it. What is your idea about why it is being offered?

A. I assume it has been offered to show that there is prejudice in Tarrant County and that it tends to be effectively transmitted politically, this prejudice.

Q. Would you think that you could find a county in Texas or a county or parish in these United States where the issues of busing of children is not an issue which would be calculated to appeal to the prejudice of one sort or another in people?

A. I doubt it.

Q. And in your own personal efforts in distributing this particular exhibit, I'm sure you didn't think of yourself as a racist?

A. No.

Q. Just a brief reference to the word "slating" which has been used. Am I correct in understanding that the slating that you're talking about, if I understand it

correctly, there are four or five groups in Tarrant County which are the principal sort of organized groups that deal in politics. There are the Labor Unions and the precinct workers, which is principally black, a Mexican-American organization and several others, comprising a total of about five, including a sort of vaguely defined Seventh Street group or business community. Is that a fair thumbnail description?

A. Substantially, although it varies from year to year. There will be new ones; some will drop out, and new ones will come in.

Q. As I understand it, in Tarrant County there is a fairly wide divergence between those groups. That is, I believe you have told us maybe on one occasion in the last ten or fifteen years they have kind of gotten together and tried to agree on a Democratic slate, but at all other times there has been divergence or difference of opinion among the various groups about who ought to be supported as Democratic candidates.

A. Yes. I think it would be safe to say that a candidate running for the Legislature in Tarrant County goes to one of two groups. It would be the Labor group or the Seventh Street or business group for support.

Q. And that is not uncommon throughout this nation?

A. I wouldn't think so. To my knowledge it is not.

Q. To seek the support of Labor and business?

A. Right.

Q. But there is not any one little group of king makers sitting around anywhere in Tarrant County that is able to say, "This fellow or this lady will be a candidate on the Democratic primary." There's four or five divergent groups that see differently the issues and see differently the candidates, and it's kind of a fight among all of them to see who gets on and who gets the support after they get on?

A. Well, I don't know who makes the decisions in the Seventh Street group, but I know the decision made in the organized Labor group is a Democratic process where all the delegates to the Central Labor Council vote on who will be supported.

Q. And you talk to all candidates who want to come and talk to you, I suppose?

A. Yes, sir, right, always have.

MR. YORK: I believe that's all we have, Your Honor. Thank you.

CROSS-EXAMINATION

BY MR. BONNER:

Q. I have one brief question for you, Mr. Sifford. I believe on your deposition you dealt with the racial---.

JUDGE WOOD: Counsel, I belive you have to give your name, so the court reporter can get it.

MR. BONNER: I'm sorry, Your Honor. Norman Bonner.

Q. In your deposition you dealt with the racial aspects of campaigning for the Legislature in Tarrant County?

A. Yes, sir.

Q. Do you recall that, sir?

A. Yes, sir.

Q. And you have spoken today of the economic aspect. What I want to ask you is, in your opinion all things being equal where black and white candidates are involved, which factor would be more decisive in tipping the scales in favor of one candidate or another candidate, race or economics?

A. I would guess I would say race.

MR. BONNER: Pass the witness.

MR. GLADDEN: Don Gladden, Your Honor, on redirect examination.

REDIRECT EXAMINATION

BY MR. GLADDEN:

Q. Mr. Sifford, in connection with the slating process, the slating process takes place prior to the Democratic primary. Is that correct?

A. That's correct.

Q. And that the slating is for the Democratic primary, rather than agreeing upon a Democratic candidate for the November elections. Is that correct?

A. Primary.

Q. So the slating process takes place prior to the Democratic primary, and that is what you had reference to in your cross-examination. Is that correct?

A. Yes.

Q. I'll ask you whether or not a person--that the selection by the Labor and related selection groups is tantamount to election, whether or not the liberal labor communities placing a person's name on a slate, does that automatically mean that person gets elected?

A. If I understand you right, the answer is no.

Q. Now then, is it important, however, in terms of being able to make a significant race, to have the endorsement of one of the two slate-making groups?

A. I would say that very seldom -- it's not impossible, but it's highly improbable that any candidate could be elected without the support of of the the -- the support of one or the other or both.

Q. In that connection we're talking about the Seventh Street group and then the labor related coalitions of liberal, black and brown community?

A. That's right, I would think that the candidate would have to have the support of one of the two to have much of a chance.

MR. GLADDEN: Pass the witness.

MR. YORK: We have nothing further.

JUDGE JUSTICE: Are there other questions of this witness.

MR. GLADDEN: I would like to call Mr. John Dillard.

At this time, Your Honor, we would like to

offer in evidence J. W. Sifford's deposition, if we have not.

JUDGE JUSTICE: It will be received in evidence.

JOHN DILLARD

a witness called by the Tarrant County Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. State you name to the Court, please.

A. John Dillard.

Q. Where do you reside, Mr. Dillard.

A. 3913 Wilbarger, Fort Worth, Texas.

Q. In that connection, if you will, speak into the microphone so that it will be picked up and all of us can hear.

How old are you, Mr. Dillard.

A. Twenty-three years old.

Q. What is your business, occupation or trade at the moment?

A. I am a student.

Q. And where are you a student?

A. North Texas State University.

Q. And what is your major?

A. Sociology.

Q. I'll ask you how old you are.

JUDGE GOLDBERG: We got his age.

MR. GLADDEN: I apologize, Your Honor.

Q. In that connection, where is Wilbarger Street in connection or in association with the rest of Fort Worth or Tarrant County?

A. It's in the southeast corner of Fort Worth.

Q. I'll ask you, if you will, please, to describe the neighborhood and the makeup of that portion of the community in which you live.

A. Well, it is working class population, and it's about 50 percent white and 50 percent black and a sprinkling of Chicanos.

Q. And I'll ask you what the economic level of income is in that area, if you know.

A. It's about four thousand to ten thousand.

Q. Four thousand to ten thousand dollars per year?

A. Yes.

JUDGE JUSTICE: You're speaking about annual income?

THE WITNESS: Yes.

JUDGE WOOD: Average annual income?

THE WITNESS: Yes.

MR. GLADDEN: Yes, Your Honor, average annual income in a range from four thousand to ten thousand.

JUDGE GOLDBERG: Is this based on your knowlegde or what you got out of the census information?

THE WITNESS: Well, my parents make about $5,000.00 a year, and the houses around where we live look about the same, so that was my estimation.

JUDGE GOLDBERG: Thank you.

BY MR. GLADDEN:

Q. In that connection you do live at home with your parents, do you not?

A. Yes, I do.

Q. What is the general age makeup of the heads of households in the community and area where you live?

A. They are middle-age and older.

Q. And in that connection you say that it is a working class community. Would you tell us whether or not

it is made up primarily of skilled trademen or unskilled workers?

A. Unskilled.

Q. Mr. Dillard, I'll ask you what your earnings were last year.

A. $2,700.00

Q. And you have testified that your parents had a family income, a combined family income of about $5,000.00?

A. Five.

Q. What does your father and mother do in the way of work?

A. My father is a laborer, building labor.

Q. Does he belong to a Union?

A. Yes, he does.

Q. Does he belong to the Laborer's Union, or do you know?

A. I'm not certain what Union.

Q. What does your mother do?

A. She works at a laundry.

Q. Has she just recently been employed at the laundry?

A. Well, this year.

Q. In that connection I'll ask you whether or not you have ever entertained, thought about or considered

seeking public office.

A. I have thought about it. I have dreamed about it.

Q. I'll ask you whether or not you have ever given any serious consideration to seeking public office in Tarrant County.

A. No.

Q. Or in District 32?

A. No.

Q. Why have you not given any serious consideration to making such a race?

A. Well, I heard that it costs a lot of money, and to get that kind of money, one needs to find someone to finance their campaign, and I don't believe I want to commit myself to anyone else's causes.

Q. In that connection I'll ask you whether or not you have been active or have actively participated in anybody else's political campaigns in the past.

A. Yes, sir.

Q. Would you tell the Court what campaigns you have participated in and what nature of activity you engaged in?

A. I worked in the Farenthold campaign and in the McGovern campaign.

Q. What was the nature of the activity?

A. I made yard signs and knocked on people's doors.

Q. Do you feel that in the event or if it was feasible to have a district composed of a portion of District 32 where a door-knocking type campaign might take place, that someone in your economic circumstances might give serious consideration to seeking public office, rather than dream of it?

A. Yes, sir, it does seem possible.

MR. GLADDEN: Pass the witness.

MR. YORK: Your Honor, I didn't want to be taken a moment ago to be agreeing to a procedure whereby Mr. Bonner would follow us.

JUDGE GOLDBERG: Mr. Bonner, do you have any questions?

MR. BONNER: I'm sorry. We have no questions.

JUDGE GOLDBERG: Go ahead.

CROSS-EXAMINATION

BY MR. YORK:

Q. Mr. Dillard, what level are you in school? Are you a junior or a graduate student---?

A. Senior

Q. You're 25?

A. Twenth-three.

Q. Twenty-three? Have you been in school constantly since graduating from high school?

A. No, sir.

Q. What other jobs or trades have you followed?

A. Well, I have taken a semester out and worked at a motel last year.

Q. You worked for one semester in a motel. Is that when you earned the twenty-seven hundred or whatever it was?

A. Yes, sir.

Q. Is your mother and father's combined -- his Union work and her work, whatever it is, combined totaling $5,000.00?

A. We don't discuss finances too much. I'm not certain that's the combined total.

Q. You had expressed $5,000.00 as being the family income. If you're uncertain about it, I think it would be fair for the Court to know that, or on the other hand, if you are certain---.

A. Yes, sir, I am uncertain of it.

Q. All right. It is true that you have never given any serious consideration to running for the

Legislature from Tarrant County?

A. No, sir, I have never given it serious consideration.

Q. Have you talked to Mr. Sifford with the Trade Union people?

A. No, sir.

Q. Or talked to Mr. Johnson with the Precinct Workers?

A. No, sir.

Q. Or talked to anybody about it?

A. I have spoken to other people in the Farenthold and McGovern campaign.

Q. In the McGovern campaign and Mrs. Farenthold's campaign, they both made extensive use of media, television, radio, newspaper and every other kind of media?

A. Yes, sir, I think they did.

Q. There would be nothing in those campaigns that would lead you to believe that a purely shoe-leather campaign would be likely to succeed, would it?

A. Well, sir, I did not work in the media portion of that campaign, and the portion of the campaign that I worked in seemed to be having some effect on the voters.

Q. Good or bad.

A. It seemed like it was a good effect, sir.

Q. Good. The truth of the matter, as far as the Legislative Districts in Tarrant County, in terms of the cost of campaigning for Legislative Districts in Tarrant County, you have never worked in one of those campaigns when an individual member ran for a seat in the Texas Legislature? You've never worked in one of those campaigns?

A. I did one day's work in a campaign, but it wasn't significant, no, sir.

Q. I'm sure you're not privy to the inner workings of how it was financed?

A. No, sir.

Q. You would recognize that it would cost something to run a single-member district or multi-member district campaign?

A. Yes, sir.

Q. You have expressed the view, I think, that you are not much willing yourself -- would you view it as sort of selling out to other people's causes or views if you had to solicit money from others?

A. I believe so, sir.

Q. Could you come up with even a thousand or two thousand dollars of your own money to run a race in Tarrant County at this time?

A. At this time?

Q. Yes, sir.

A. No, not at this time.

MR. YORK: I believe that's all we have, Your Honor.

JUDGE JUSTICE: Is there redirect examination?

MR. GLADDEN: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. GLADDEN:

Q. Mr. Dillard, in connection with the density of population in Fort Worth and in your neighborhood, it is a typical medium-low income residential area. Is that not correct?

A. Yes, sir.

Q. Houses are close together?

A. Yes, sir.

Q. Do you have an opinion as to whether or not a shoe-leather type campaign could be run in a district wherein 75,000 population in that area, whether or not you could based on your experience in the Farenthold campaign and McGovern campaign, whether or not an effort could be made to conduct that type of a legislative campaign?

A. Yes, sir, I think you could knock on a good

many doors.

Q. Do you have an opinion as to whether or not if you multiplied that nine and got into a population of 650,000 whether or not it would be feasible during the interest period of time to conduct a campaign knocking on doors in a community of 650,000?

A. No, sir.

MR. GLADDEN: I believe that's all, Your Honor.

MR. YORK: We have nothing further, Your Honor.

JUDGE JUSTICE: You may stand down. Please call your next witness.

(WITNESS STANDS ASIDE.)

MR. GLADDEN: We would like to call Mrs. Betty Fischer.

Please the Court, Mr. Collins is going to be our easel, because we were unable to locate one earlier today, and I may have to excuse myself to come back and help him.

JUDGE GOLDBERG: That's all right.

BETTY FISCHER,

a witness called by the Tarrant County Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GLADDEN:

Q. State your name to the Court, please.

A. I am Betty Fischer.

Q. Mrs. Fischer, I'll ask you if you have previously testified in this case by way of deposition.

A. I did.

Q. And in that connection a series of maps were offered in the deposition, which relate basically the same information that appears on this map. Is that correct?

A. That's correct.

Q. With some exceptions and some variances in method. Is that correct?

A. That's correct.

Q. The map at the present time as it is

exhibited is identified as Plaintiff Excalante's Exhibit No. 1(a). Is that correct?

A. That's correct.

Q. And the black portion of that map represents that part of Tarrant County that is situated in Legislative District 42. Is that correct?

A. Yes, it does.

Q. With one slight exception. Is that correct?

A. That's right.

Q. The exception to that is that the gray area in the upper left-hand quarter in Census Tract No. 141 was altered by an act during the 1972 special legislative session. Is that not correct?

A. That's correct.

Q. And a portion of that census tract was moved into Tarrant County?

A. That's right.

Q. That was in order to assist Representative Gib Lewis to reside in District 32, rather than 42. Is that correct?

A. As I understand it, that's correct.

Q. Other than that one alteration, the white area does represent District 32?

A. Yes.

Q. I'll ask you if you have attempted to locate

geographically the residences of the present members of the Tarrant County Legislature or District 32 Legislature at the time that they were elected.

A. Yes, I did.

Q. And how is that identified on the map?

A. They are the green dots on the map.

Q. And that is based upon the exhibits previously offered in evidence showing their voter registrations for 1972?

A. Yes, it is.

Q. In that connection Mr. Lewis actually at that point in time did show his residence over on the right-hand side of the map---.

A. In Census Tract 6501.

Q. Mrs. Fischer, in connection with the over-all map 1(a), you have done some statistical studies have you not, and some pulling information from the Plaintiff's Exhibits 2(a) and (b), which is the census tract information and prepared summaries of the over-all makeup of District 32?

A. That's correct.

Q. And Plaintiff's Exhibit No. 1(a) prime reflects the over-all information that shows the district as a whole, does it not?

A. Yes, it does.

Q. And we have previously offered and do offer---.

This exhibit was prepared by you and based on the earlier exhibit. Is that correct?

A. That's correct.

MR. GLADDEN: And we would like to -- we have made extra copies for the Court to have relative to the over-all makeup of the district.

Q. Now, in addition to that, have you undertaken to divide the county up into four quandrants to show the economic, ethnic and social makeup of the county by quadrand?

A. Yes, I did.

Q. And that is shown on this map as Plaintiff's Exhibit 1(b), and it reflects four lines that may be difficult for the Court to see, but it reflects four lines dividing the county along census tract lines. Is that correct?

A. Yes, it does.

Q. And I'll ask you if you have done an economic summary showing the ethnic makeup of those quadrants.

A. Yes, I did.

Q. In that connection you have previously testified in the deposition about this without giving statistical information.

MR. GLADDEN: We would also like to at this time offer the Court a breakdown on each of the quadrants or the quarters of the county showing variations of the economic makeup. Now, beginning,

if I may, Mrs. Fischer, with the northwest quadrant, that area which is on the upper left of the map does have a total population of 171,000. Is that correct?

A. That's correct.

Q. The ethnic makeup is basically 82 percent white, 7 percent black and 11 percent brown?

A. That is correct.

Q. And has a mean family income based on the census information of $9,317.00?

A. That is correct.

Q. That is as compared to the over-all district-wide mean income of $11,000.00?

A. Yes.

Q. That quadrant is below the mean income of the district as a whole?

A. Yes, it is.

Q. And the mean family size of that quadrant is 3.88?

A. That's right.

Q. Now, moving on to the northeast quadrant with 178,000, that is 95 percent white. Is that correct?

A. Yes.

Q. Two percent black?

A. Correct.

Q. And three percent brown?

A. Yes.

Q. And the mean family income is $12,605.00?

A. That's right.

Q. How many of the present members of the Legislature reside in the northeast quadrant?

A. At the time they were elected in the spring of '72 four resided in the northeast quadrant.

Q. Four of the nine Representatives elected in that district?

A. Yes.

Q. Going back to the northwest, how many resided in the northwest?

A. Well, our map shows two in the northwest. One actually falls far to the east of that quadrant, but my quadrant line had to be moved over because of the lack of population density in the western part of the county.

Q. That one that lies right along the line and geographically more in the east but according to population in the west, does that community of interest in the area where he lives fall generally to the west of the county or to the east?

A. More to the east of the county.

Q. So that actually would be five in that community of interest. Is that correct?

A. Yes.

Q. Now, moving on to the southeast quadrant, I'll ask you if you have done the summary to reflect population there.

A. Yes, I have.

Q. Now then, the 153,811 is what you show in the southeast quadrant. Is that correct?

A. Yes.

Q. That is because you comtemplated the Supreme Court's striking District 42, as well, and your basic figures were based upon trying to redraft and alter District 42. Is that correct?

A. Yes, that is correct.

Q. Now then, in that connection the over-all ethnic makeup of the southeast quadrant is 61 percent white, 36 percent black and 3 percent brown. Is that correct?

A. That's correct.

Q. Now, in addition to the southeast quadrant I'll ask you whether or not the City of Arlington is included or part of the City of Arlington in the southeast quadrant there as you have shown it.

A. Yes, it is.

Q. There is a difference, is there not, between the economic interest and the ethnic makeup of the south portion of the City of Arlington and the southeast portion of

the City of Fort Worth?

A. Oh, definitely. Arlington is a white upper middle-class white neighborhood.

Q. Have you done a compilation of the southeast quadrant, or that portion, at least, of the southeast quadrant without the City of Arlington in it?

A. Yes, I did.

Q. In that connection it is composed primarily of southeast Fort Worth. Is that correct?

A. That's right.

Q. And using that, there's a total of 109,000 people in that quadrant. Is that correct?

A. That's correct.

Q. 51,378 or 47 percent are white?

A. That's right.

Q. And 49 percent are black?

A. Yes.

Q. And four percent are brown. Is that correct?

A. Yes.

Q. And the mean family income is $8,815.00. Is that correct?

A. Yes.

Q. Now, this is the area that John Dillard lives in. Is that not correct.

A. Yes, John lives in that area.

Q. I'll ask you whether or not any State Representatives were elected from that area in 1972.

A. No, there were not.

Q. I'll ask you whether or not you can recall, since you have been in politics, and your deposition will reflect how long, whether or not there has ever been a State Representative elected from the southeast portion of Fort Worth.

A. Only one several years ago, and he lived on the very fringe, the northern edge of his portion of the county.

Q. And the mean family size is larger there than in any other district. It's 4.04. Is that correct?

A. That's correct.

Q. Now, moving on to the southwest quadrant. You have done a tabulation of that, 172,420 people in that quadrant?

A. That's right.

Q. A total white of 87 percent, 6 percent black and 7 percent brown?

A. Yes.

Q. And the mean family income is $13,374.00?

A. That's right.

Q. And the mean family size is 3.74?

A. Yes, it is.

Q. Is that the smallest family size of the various quadrants?

A. Yes, it is.

Q. And the highest mean income?

A. That's correct.

Q. How many State Representatives resided in that quadrant at the time of their election?

A. Three.

Q. So there are three in the southwest quadrant, four in the northeast and two in the northwest?

A. That's correct.

Q. And zero in the southeast?

A. That's correct.

Q. Have you also prepared -- no, excuse me. Plaintiff's Exhibit 1(c) prime, which was a summary of information by census tracts wherein you took two high-income census tracts and two low-income census tracts and made compilations on the basis of those?

A. Yes, I did.

Q. In that connection would you tell the Court, and I don't have a copy of that before me-- would you tell the Court what your high-income figures show as compared to the two low-income figures?

A. Two high-income tracts, one is 54.02, which falls in the southwest quadrant of the county, has a mean

family income of $26,825.00. In this there are 968 families that have an income between $25,000.00 and $50,000,00, and 223 families with an income of over $50,000.00. There are only 1,300 families in all of District 32 with an income of over $50,000.00, and 223 of them live in this census tract. Their mean family size is 2.61.

The other high-income census tract is 106.02 with a mean family income of $40,693.00. It is 98 percent white, 31 families with twenty-five to fifty thousand dollar income, 23 families with fifth-three thousand and over income. There are only 96 families living in this census tract. It is also in the southwest quadrant of the county.

Q. In that connection, before you go on to the lower income, I think I am getting ahead, and there is a map later on that demonstrates some of that. Is that not correct?

A. That's correct.

Q. I'll ask you in connection with your work in the census information whether or not you have prepared and caused to be prepared -- incidentally, this map was prepared either by you or under your supervision, was it not?

A. Yes, it was.

Q. And all the information placed on that map is supported by exhibits which you have previously identified and been offered in evidence?

A. That's right.

Q. I'll ask you if you caused to be prepared at my request an overlay which reflects the precincts wherein there is a black population in excess of 30 percent.

A. Yes, I did.

Q. And I'll ask you if Plaintiff's Exhibit No. 1(c), Plaintiff Escalante's Exhibit No. 1(c) reflects those census tracts.

A. That is correct.

Q. Now, in addition to those census tracts, I'll ask you whether or not you have prepared and compiled a statistical summary of information which relates to not only those census tracts, but the other census tracts wherein there is significant black population.

A. Yes, I did.

Q. And that is Plaintiff Escalante's Exhibit No. 1(c) prime?

A. That is correct.

Q. Now, of these census tracts shown in blue, those are the ones that are the black census tracts?

A. Those are census tracts that have more than 30 percent black population.

Q. Are they marginally 30 percent or is the percentage significantly greater?

A. Oh, most of them are more than 75 percent

Q. In that connection how many census tracts are there in this category?

A. There are 25 census tracts that are more than 30 percent.

Q. Now, there are 80,336 blacks in the district. Is that correct.

A. That's correct.

Q. When I make reference to the district and Tarrant County, if you please, I make use of the district smaller than the county, but when we're talking about after 1968, I'll actually be referring to District 32, which is less than the county. Any reference prior to 1970 will be for the county as a whole. You understand that?

A. Yes.

Q. In that connection these tabulations are based on the present district. Is that correct?

A. Yes, District 32

Q. And that's 12 percent black total population?

A. That's right.

Q. These 15 census tracts--15 additional census tracts where there are between 5 and 30 percent population. Is that correct?

A. That's correct.

Q. Are those contiguous with or around these

blue areas, or where are they located?

A. All of them are contiguous with the blue areas except the three that fall into the smaller cities, incorporated areas, and the one census tract that is to the west.

Q. And in that connection the 13 census tracts in blue have in excess of 75 percent total black population. Is that correct.

A. That's correct.

Q. And the mean family income is $6,570.00?

A. That's right.

Q. And the mean family size is 4.04. Is that correct?

A. Yes, that is correct.

Q. Now, in addition to that, I asked you to prepare, and was there prepared an overlay which reflects the brown or Chicano concentration of population in Tarrant County.

A. Yes, I did.

Q. In that connection that overlay is identified as Plaintiff Escalante's Exhibit No. 1(d). Is that correct?

A. That's correct.

Q. And that shows the census information where Chicano population is 30 percent or greater in yellow?

A. Yes, that is correct.

Q. With the exception of one green, which is a combination of yellow and blue, and that signifies one census tract where there is 30 percent population in both black and brown census tracts?

A. That's right.

Q. Now, in addition to that, did you prepare a summary of the brown population as it is distributed in District 32?

A. Yes, I did.

Q. And that has been identified previously as Plaintiff Escalante's Exhibit 1(d) prime. Is that correct?

A. That's right.

Q. In that connection there are 40,742 persons of Spanish surname or Spanish ancestry. Is that correct?

A. That's correct.

Q. And of that there are 7 census tracts where there is 30 percent or greater brown density of population?

A. That is right.

Q. That is the yellow ones. Can you tell the Court, if you will, briefly what the remaining census information or distribution of the brown community is?

A. Fifty-five census tracts where there are more than five and less than thirty percent brown, fifty more

census tracts where there is more than two percent and less than five percent brown population, so we have 105 census tracts with more than two percent and less than thirty percent brown population, and they are spread throughout the district.

Q. Mrs. Fischer, in that connection back to your testimony about your summary of economic information in District 32, I'll ask you whether or not you did prepare a summary of economic information and prepare an overlay which reflects certain economic information on the map.

A. Yes, I did.

Q. And that has been previously identified as Plaintiff Escalante's Exhibit No. 1(e). Is that correct?

A. That's correct.

Q. Now, the overlay that is shown on the map shows the census tracts wherein the population exceeds $3,000.00 above the mean family income in a diagonal and where it is less than $3,000.00 below the mean income of $11,000.00 in a dot. Is that correct?

A. That's correct.

Q. In that connection, the mean family income being $11,000.00 this means that the range is in dots showing a mean family income up to $8,000.00?

A. That's right.

Q. The white area shows between eight and

and fourteen thousand dollars.

A. That's right.

Q. And the diagonal area shows from $14,000.00 up in mean family income. Is that correct?

A. That's right.

Q. Now, in addition to that, if you will, please, go ahead and explain to the Court -- you previously talked about the two high-income census tracts that you selected, and you have identified those as in the southwest quadrant, have you not?

A. Yes, I have.

Q. Would you tell the Court about the low-income tracts and where they are situated on the map?

A. Census Tract 11, which is just to the east of the downtown area, it also happens to have a population greater than 30 percent black. It has a mean family income of $4,437.00, a mean family size of 4.62. There are 382 families who live here. It is 86 percent black, 10 percent brown and 4 percent white. There are 29 families who have less than $1,000.00 a year income, 46 families with less than $2,000.00 a year income and 56 families with less than $3,000.00 a year income.

Census Tract No. 17, which lies immediately to the south of 11, has a mean family income of $3,604.00, a mean family size of 4.56. There are 702 families living

here. It is 95 percent black, one percent brown and four percent white. There are 105 families with less than $1,000.00 income, 126 families with less than $2,000.00 income and 171 families with less than $3,000.00 income.

Q. In that connection then, the range within census tracts, as prepared by the Census Bureau, the range in mean family income in Tarrant County ranges from $3,604.00 at the bottom and to $40,693.00 at the top end and that the mean family size ranges from about 4.56 at the bottom end in the low economic area up to about 2.61 or smaller, depending on which of the two higher income tracts. Is that correct?

A. Yes. One of the high-income tracts we were unable to get that figure, because the tract is so small.

Q. I'll ask you, Mrs. Fischer, if you did cause to be prepared in this connection an exhibit which reflected the ethnic and economic makeup of the census tracts wherein each of the State Representatives were elected in 1972?

A. Yes, I did.

Q. And that is Plaintiff's Exhibit 3(a) -- (I) prime?

A. That's right.

Q. All right, and in that connection, this is based upon where they registered to vote in 1972?

A. Yes.

MR. GLADDEN: In the interest of brevity, if I may make some references to it and lead the witness a little bit, Your Honor---.

Q. In that connection, Mr. Charles Evans, a State Representative, lives in a precinct with a mean family income of $14,000.00. Is that correct?

A. That's correct.

Q. It is 96 percent white and 4 percent brown?

A. That's right.

Q. Bill Hilliard lives in a census tract with $18,288.00 mean family income. It is 99 percent white and one percent brown. Is that correct?

A. Yes.

Q. Bud Sherman lives in a census tract where the mean family income is $12,737.00. It is 95 percent white and 5 percent brown. Is that correct?

A. That's right.

Q. Gibson Lewis lives or is registered in 1972 in that northeast portion of the county in a census tract where the mean family income was $17,368.00. Is that correct?

A. That's correct.

Q. With 94 percent white and 6 percent black?

A. That's correct.

Q. Tom Schieffer lives in a census tract where

the mean family income is $14,465.00, and it is 100 percent white?

A. That's right.

Q. Likewise, Joe Spurlock lives in a census tract of $11,860.00 mean family income, and it's 100 percent white?

A. Yes, sir.

Q. David Finney lives in one that has a mean family income of $10,432.00. It is 98 percent white and 2 percent brown?

A. That's right.

Q. Chris Miller lives in a district or census tract where the mean family income is $20,948.00. Is that correct?

A. That's correct.

Q. It is 96 percent white and 4 percent brown. Is that correct?

A. Yes, sir.

Q. Doyle Willis lives in a census tract where the mean family income is $10,833.00?

A. That's correct.

Q. And it is 94 percent white, 3 percent brown and 3 percent black. Is that correct?

A. That's correct.

Q. Doyle Willis is the only member of the present

makeup of the Legislature who lives in a census tract where there is any significant -- more than one-half of one percent black population. Is that correct?

A. That's correct.

JUDGE GOLDBERG: We'll pause for a 15-minute recess.

MR. GLADDEN: Thank you.

(REPORTER'S NOTE: The Court then, at 10:35 o'clock, A.M., December 3, 1973, recesses until 10:50 o'clock, A.M., the the same day, at which time it reconvened.)

JUDGE GOLDBERG: Would you mind telling us how many live witnesses you expect, Mr. Gladden?

MR. GLADDEN: This is our last witness, Your Honor.

JUDGE GOLDBERG: Thank you very much.

MR. GLADDEN: With one exception, Mr. Collins will testify relative to the time spent in preparation of the case as to attorney's fees.

BY MR. GLADDEN:

Q. Mrs. Fischer, you had just got through

testifying about the economics of the census tract information. I'll ask you whether or not you have done some statistical studies relative to the comparison of black and white voter activity among selected races in Tarrant County?

A. Yes, I have.

Q. You have previously testified on your deposition that there has only been three black candidates for the Democratic nomination for State Representative in recent modern history. Is that not correct?

A. That's correct.

Q. And that during the years, '60 through '72, that was out of about 106 persons that sought the Democratic nomination?

A. Yes.

Q. All right. Now, I'll ask you whether or not you have identified on the map the location of the residence of each of those three black candidates that have run in recent history.

A. Yes, I have, in small black dots.

Q. They're shown in small black dots?

I'll ask you whether or not each of those resides in the black community?

A. Yes, they do.

Q. And each of them resides in the economic overlay that shows mean family income of less than $8,000.00?

A. That's correct.

Q. And I'll ask you whether or not you have summarized the effect of or whether there has been voter polarization as to those black candidates against their white opponents?

A. Yes, there was.

Q. Now, in that connection I'll ask you, in doing that, you selected five precincts -- no, excuse me -- you selected precincts which you considered to be all black. Is that correct?

A. That's correct.

Q. And in 1968 was the first time a black had run. Is that correct?

A. That is correct.

Q. And that was a person named Charles Grays. In 1972 there was a James Gaskin and a Bobby Webber, both who are parties to this lawsuit. Is that correct?

A. That's correct.

Q. Did you take those races and make a comparison of the votes that each of those persons got in what you considered to be the total black precincts versus the rest of the county where there's black and white and brown mixture?

A. I did

Q. In selecting precincts, did you base it upon your personal knowledge of the ethnic makeup by voting

precincts?

A. Yes, I did.

Q. And you based it on your testimony as to your qualifications in the deposition, did you not?

A. That's right.

Q. You prepared a summary of this information, which has been identified as Plaintiff Escalante's Exhibit 7(a) prime through 7(c) prime. Is that correct?

A. That's correct.

Q. In that connection, turning to Page 2 of that summary, and in this connection, you're using 17 black precincts in 1968 and 19 in 1972. Is that correct?

A. That's correct.

Q. In the balance of the district for comparison. Would you turn to Page 2, and in the 1968 race where Charles Grays was running, he was the black person in the race. Is that correct?

A. That's right.

Q. In the black precincts he received a total of 89 percent of the vote. Is that correct?

A. That's right.

Q. And his opponent, Mr. Bud Sherman, who is here in the courtroom, received 11 percent of the black vote?

A. That is correct.

Q. And in the predominantly white, but with some black and some brown population, Charles Grays received 8,000 votes or 27 percent. Is that correct?

A. That's correct.

Q. And Mr. Sherman received 47,000 or 73 percent of the white vote. Is that correct?

A. That's correct.

Q. And by white votes, I'm talking in terms of predominance rather than total purity. You understand that, do you not?

A. That's right.

Q. So there was just almost a complete reversal in terms of makeup of the total boxes in that race?

A. That's right.

Q. Now, then -- and that was a county-wide race, was it not?

A. Yes, it was.

Q. Now, turning to the 1972 Democratic primary where both Mr. Webber and Mr. Gaskin sought the nomination, looking first to the Webber race, Mr. Bobby Webber received in the black precincts, the 19th Precinct, you have identified 77 percent of the votes. Is that correct.

A. That's correct.

Q. And the combined total of the three white opponents was less than 2,000 or 23 percent?

A. That's right.

Q. And looking at the balance of the boxes in District 32, the records reflect 25 percent of the vote by Mr. Webber in the white boxes, predominantly white, and 75 percent by his combined three white opponents?

A. That's right.

Q. So there again, there was just a reversal of the trend. It was three-to-one in the black boxes for Webber, three-to-one against him in the white boxes?

A. That's correct.

Q. All right. Looking at the 1972 race in the Gaskin race, it's not quite as demonstrative in that. Is that correct?

A. That's right.

Q. Now, Gaskin received 32 percent of the black vote, while his combined two white opponents received 68 percent?

A. That's right.

Q. In that connection, Doyle Willis was one of his opponents. Is that correct?

A. That's true.

Q. And a man who had held public office since World War II almost continuously in the area?

A. That's right.

Q. And these combined two opponents got 68

percent in the black community, and in the white community Gaskin's percentage dropped from 32 to 20 percent?

A. That's right.

Q. And the combined two white opponents went from 68 to 80?

A. That's right.

Q. And in that connection, however, Mr. Gaskin was not endorsed or supported by the Black Precinct Workers Council?

A. That's correct.

Q. The organization Mr. Johnson has identified himself as chairman of?

A. That's right.

Q. Now then, Mrs. Fischer, I also asked you to do a summary or a comparison of voter turnout in the black precincts, did I not?

A. That is correct.

Q. As compared to the selected white precincts?

A. That is right.

Q. In that connection, you have selected five precincts which are almost 100 percent black and five precincts which are almost 100 percent white. Is that correct?

A. That's correct.

Q. Did you in making that selection of these precincts to tabulate take into consideration the geographic

location, the age factor, as well as the mean income factors?

A. I tried to.

Q. In that connection you prepared a summary which has been identified as Plaintiff Escalante's Exhibit 8, 9 prime. Is that correct?

A. That's correct.

Q. Looking to that on Page 2 -- well, Page 2 reflects both general and primary election in 1968. Is that correct?

A. That's correct.

Q. And Page 3 reflects the same information for 1970, and Page 4 refelcts the same information for 1972?

A. That's correct.

Q. And in connection with that averaging, I believe there is testimony here where there is testimony that the voter turnout is significantly less in the primaries in the black community, as compared to those voter turnouts in the general election. Is that correct?

A. That's correct.

Q. Now, averaging the voter turnout in both the white and black precincts in the primaries for those three years, I'll ask you to state whether or not the percentage is about 33.5 turnout in the black precincts and 43.5 in the white precincts you used. Is that correct?

A. 33.3 and 43.3

Q. O.K., 33.3 and 43.3. Projecting that to using those figures and applying it to a thousand white and a thousand black votes and projecting that turnout as to a voter turnout, have you reached any conclusions as to the ratio of people who actually arrive at the polls as between black and whites?

A. Yes, while this percentage only shows 10 percent, if you had a thousand white voters and a thousand black voters, if 43 percent of the white voters went to the polls, that would be 463. If 33 percent of the black voters went to the polls that would be 333. That means 760 votes actually cast out of a possible 2,000. That would expand the vote that the white cast, if you're talking of block vote, to about 14 percent instead of 10 percent.

Q. In other words, of a thousand white registered voters versus a thousand black registered voters in these precincts, there would be 13 more white people arrive at the polls than black people, if you used this voter turnout information you have developed. Is that correct?

A. There would be 13 more whites for each hundred voters registered.

Q. Right, using 100 -- excuse me -- using 100. Of each 100 people that arrived at the polls 13 more would be white than black?

A. That is correct.

MR. GLADDEN: Excuse me, Your Honor. I seem to be---.

(PAUSE)

MR. GLADDEN: I'll do it---.

Q. In connection with Plaintiff's Exhibits Nos. 16 and 17, those were the newspaper clippings that have been previously identified. I'll ask you if you caused those to be prepared.

A. Yes, I did.

Q. And in that connection you selected these from the archives of both daily newspapers in Fort Worth?

A. That's right.'

Q. And it was your purpose in selecting them to select articles which portray and show whether or not there is racial differences within the District 32 area. Is that correct?

A. Yes, that's correct.

Q. And these articles that you have selected as shown in Exhibits 16 and 17, are demonstrative of what they reflect in terms that they are circulated in Tarrant County in the daily newspapers, were they not?

A. That is correct.

Q. And in that connection both of these newspaper archives are daily newspapers in Fort Worth and are the only daily newspapers with total circulation in the

county?

A. That's right.

MR. GLADDEN: At this time we offer Plaintiff Escalante's Exhibits 16 and 17, not for the purpose of showing the facts, but for the purposes of showing the racial attitudes of the people in the community.

MR. YORK: Your Honors, without intending any disrespect toward those newspapers, we would respectfully urge our objection that it is hearsay and contains conclusions which the writer of the articles is not shown to be able to draw.

JUDGE GOLDBERG: Do you want to be heard from?

MR. GEORGE: To bring the Court's attention to former stipulations by the State when this proceeding was going on in January of 1972. The State stipulated the admissibility of similar newspaper items for all purposes. I don't know what the role of the stipualtions of the State in the first hearing in this proceeding is, but I would suggest that they are bound by the sitpulation.

JUDGE GOLDBERG: Well, we will take the stipulation and the objection under advisement.

when we study the case.

BY MR. GLADDEN:

Q. In addition to Plaintiff's Exhibits Nos. 16 and 17, there is in evidence Exhibit No. 19, which is a clipping which was circulated in Tarrant County, was it not, by one of the Republican candidates for the Legislature?

A. It's a reproduction of a handbill circulated by a Republican candidate.

Q. And that was circulated in the Tarrant County area. Is that correct?

A. Yes, it was.

Q. And it does reflect a position by that Republican candidate on the issues of busing. Is that correct?

A. Yes, it does.

Q. It suggests his Democratic opponent favors busing, and he is opposed to it?

A. That's right.

Q. Now then, Plaintiff Escalante's Exhibit No. 21 is also a series of newspaper clippings. Is that not correct?

A. That's correct.

Q. In that connection this is a series of articles that were prepared and published in the Wednesday --

or in the Fort Worth Star Telegram during the last week or two. Is that correct?

A. Yes, Wednesday, November 21st.

Q. And it pertains to -- you said November 21st?

A. November 21st.

Q. It pertains to the community attitudes on housing and insofar as ethnic living in housing areas, does it not?

A. Yes, it does.

Q. And this was actually taken by you out of the newspapers. Is that correct?

A. That's correct.

Q. And it was circulated in Tarrant County?

A. Yes.

MR. GLADDEN: We tender Plaintiff Escalante's Exhibit No. 21 in evidence.

MR. YORK: Your Honor, we have the same objection that we previously urged.

JUDGE GOLDBERG: Same ruling.

Q. In that connection, Mrs. Fischer, the Plaintiff's Escalante exhibit does relate to some people's attitude on housing in the Tarrant County area, does it not?

A. Oh, yes, it does.

Q. Have you picked out just very briefly one or two instances or examples of what this newspaper quotes

people as saying as to their attitudes on ethnic housing?

A. Yes, I have a couple of examples. One is concerning Arlington where the Planning Department in Arlington is quoted as saying: "Negroes have the most obstacles to overcome," and they were talking about the availability of housing in Arlington. It went on to say, "Arlington has a very small black population. It is a ghetto-type population," and they pointed out there is, you know, evidence of what the city did for the area before the Civil Rights Act. It had a dilapidated school at one end of the street, and when the Civil Rights Act was in process of going through, they ran and built a small swimming pool, not as large as many white families have in their own back yard, at the opposite end of the street.

Then another of the quotes that came up from the Watagua residents who said that he wanted to remain anonymous. He said, "The reason people like Watagua is there is no city tax and no Negroes." The city secretary of Watagua, Mr. Noel Meadows, spoke of the absence of blacks in the city saying, "We don't discourage them, but then you wouldn't say we encouraged Africanos to live in the city either."

This is two I have picked out. There are many others in the newspaper article that reflects about the same thing.

JUDGE JUSTICE: What was that term, Africanos?

THE WITNESS: Africanos.

Q. Incidentally, Mr. Meadows' wife was a delegate to the National Convention for George Wallace, was she not?

A. Yes, she was.

Q. And she's City Manager of the City of Watagua in Tarrant County?

A. That's correct.

Q. And that is one of the areas up in the north portion of the county where there is no showing of any ethnic population. Is that correct?

A. That's correct.

MR. GLADDEN: At this time, Your Honor, we would like to tender Plaintiff Escalante's Exhibits 18(a) through (i), Xerox copies of a series of these slate cards. We would like to tender the originals to the Court so the Court can see the manner instead of the fact that they were all put on one Xerox page, we would like to tender those to the Court. They have been previously, of course, identified and shown to the State.

JUDGE JUSTICE: Is there objection?

MR. YORK: No, Your Honor.

JUDGE JUSTICE: They will be received in evidence.

MR. GLADDEN: At this time, Your Honor, we would like to ask Mrs. Fischer---.

BY MR. GLADDEN:

Q. Mrs. Fischer, in connection with the preparation of this map, I'll ask you whether or not you have done some work in an effort to attempt to suggest to the Court how lines can be drawn in Tarrant County so as to be representative of both the ethnic and economic, as well as the political make-up of the district.

A. Yes, I did.

Q. And is that an overlay identified as Plaintiff's Exhibit No. 1(f)?

A. That's correct.

MR. MARTINEZ: Your Honor?

JUDGE GOLDBERG: Yes.

MR. MARTINEZ: We believe he's going to go into the plan at this time, and we would object to any evidence along that line.

MR. GLADDEN: Please the Court, the reason for going into the exhibit, there are two reasons. Number one is we feel like it is imperative that we demonstrate to the Court that a plan can be

presented to the Court which would satisfy the constitutional inequities that we say exist, that we can demonstrate to the Court that the ethnic and economic makeup of our district is such that it can be constitutionally satisfied by drawing nine lines. That is the first primary thing.

MR. MARTINEZ: Your Honor---.

JUDGE JUSTICE: One moment.

(REPORTER'S NOTE: Court here confer out of the hearing and presence of the court reporter.)

JUDGE GOLDBERG: What is your objection?

MR. MARTINEZ: I believe she can testify to that without presenting the plan.

JUDGE GOLDBERG: I don't understand he is offering this exhibit as a plan that in any event bears the imprimatur of any party. He simply wants to establish, for whatever good it may be, that there is a plan that could satisfy what Mr. Gladden says is a constitutional right of the Plaintiffs and Intervenors in this case. I don't think he needs a chart to show this. I agree with you that he could ask it in question form, but for some reason he

thinks he must get it in graphic form. I think everyone has been told to present plans sealed. Isn't that correct, Judge?

JUDGE JUSTICE: No, those who were not actual parties to the litigation were to submit sealed plans.

JUDGE GOLDBERG: Oh, I see.

I think we'll admit it only for feasibility, and I want you to understand that is the only thing it will be considered for. There is a plan whereby your people could be satisfied -- I mean whether or not it has to be done or the Constitution requires more or less is not going to be solved necessarily by this document.

MR. GLADDEN: This is correct, Your Honor, and we will file with the Court -- it is my understanding that the order directed non-parties to file sealed plans. There was no reference made as to whether or not the parties would be afforded an opportunity to present plans or not. We will file with the Court a plan, but at this point in time we would like to offer this evidence to demonstrate the economic and ethnic makeup for the purpose of showing a plan could have been devised by the Texas Legislature and wherein these consti-

tutional inequities could have been satisfied.

BY MR. GLADDEN:

Q. Now, in that connection, you have prepared a plan, have you not? You have drawn lines?

A. Yes, I have.

Q. And that is Plaintiff Escalante's Exhibit 1(f)?

A. That's correct.

Q. In that connection, I'll ask you whether or not you have identified these by census tracts.

A. Yes, I have

Q. Now then, I'll ask you whether or not in that connection you have developed a summary of the population, the economic and ethnic makeup of each of these subdistricts, I guess you would call them, at the present time, of District 32, showing the economic, ethnic and mean family size and other pertinent information?

A. Yes, I have.

Q. And that is shown in Plaintiff Escalante's Exhibit 1(g) prime. Is that correct.

A. That's correct.

MR. GLADDEN: All right, we offer in evidence 1(g), which is the census tract information or the census definition of the lines shown on the map, as well as 1(g) prime, which is the economic and ethnic summaries of the breakdown.

Q. Looking to 1(g) prime, I'll ask you whether or not you show these districts -- and if you can identify them to the Court as you go through -- and you have got them marked down there as Box 32-1 through 9. Is that correct?

A. That's correct.

Q. On No. 1, and it's difficult to see, but that is the portion in the center of the map. Is that correct?

A. Yes, that's the inner city of Fort Worth.

Q. All right, and would you tell the Court the makeup of that?

A. There's 74,614 in population. It's 28 percent white, 50 percent black, 22 percent brown. The mean family size is 4.6. The mean family income is $6,604.00.

Q. Now, turning to District 2, and rather than run through these, the Court has copies of these.

A. All right.

Q. It's District 32-2. Is that portion to the immediate right and down, the immediate east and south. Is

that correct?

A. That is the southeast portion of a county. There is presently a high population of black. It is an area where the black population is growing and moving into as they move out of the inner city.

Q. In that connection, each of the three black candidates who sought public office live in either one or two. Is that correct?

A. That's correct.

Q. And the median or mean family income is a little bit higher in two than one. Is that correct?

A. Yes.

Q. Even though there is ethnic makeup, blacks in the community, then mean family income is more than the center city income?

A. That's correct.

Q. Both of these districts pertain or deal with the southeast portion of the district where there are not representatives and have been none for many years?

A. That's right.

Q. Now, 32-3, would you very breifly tell the Court where that is and the makeup of it?

A. It's to the north and east of 32-2.

MR. GLADDEN: If it please the Court, may I stand by the map so that I can point it out to the

Court?

A. It tends to be the eastern suburb of Fort Worth and a portion of Arlington and Richland Hills.

Q. In that connection the mean family income is $13,000.00 and there are no appreciable blacks or browns in that district. Is that correct?

A. That's correct.

Q. Further in that connection, the City of Arlington has a population over 100,000 people. Is that correct?

A. That's correct.

Q. In order to draw a district of 75,000, it was necessary to take part of that population out?

A. Yes.

Q. All right. District 32-4 is what?

A. That is part of Arlington that is together. I might add part of the part that we took out of Arlington into 3 have smaller incorporated cities. That's not all Arlington so that 32-4 is Arlington proper.

Q. I see, and that has a 75,117 population, which is just almost on the money in terms of numbers of people. Is that correct?

A. That's correct.

Q. And the mean family income is $11,784.00, and there is a small black population in that district. Is

that correct?

A. Very small, only one percent.

Q. And this is actually in Grand Prairie. Is that not correct, that part of Grand Priarie in Tarrant County?

A. That's correct.

Q. No. 32-5, would you tell the Court a little bit about 32-5?

A. 32-5 is the mid cities area. We call it the white suburban, average age around 40, engineers, school teachers, semi-professional people.

Q. That's the Hurst-Euless-Bedford area. Is that correct?

A. That's correct, near the new airport.

Q. And in that connection it is 97 percent white and has a mean family income of $12,330.00?

A. That's correct.

Q. Would you tell the Court about 32-6?

A. 32-6 is the old northeast side of Tarrant County. It has one or two small incorporated cities, Haltom City and Watagua in it. It's mainly an older community of working people.

Q. And it has a mean family income of $9,183.00. Is that correct?

A. That's correct.

Q. Now, 32-7

A. 32-7 has part of North Fort Worth, a little bit close to the center of the business area, several incorporated small cities, a blue-collar district with a mean income of $9,165.00.

Q. And it is 92 percent white. Is that correct?

A. That's correct.

Q. All right. Now, 32-8.

A. 32-8 is known as the Ridglea or west side of Fort Worth. It has mostly very high income population, a very young population.

Q. In that connection the mean family income of that district is $16,785.00. Is that correct?

A. That's correct.

Q. And it has a family size of 3.6?

A. The smallest of any of the districts.

Q. In that connection I believe you told me the number of families in excess of $50,000.00 mean family income, as that district relates to the rest of the county, do you have that?

A. I can't quote the figure, but is is over half of the 1,300 families living in that district that have an income over $50,000.00.

Q. And now, going on to 32-9.

Q. Yes. Now, this again, is just the outlying

areas of Fort Worth on the west and south and the old T.C.U. area. It, again, a fairly high income with $12,831.00 and it is 95 percent white.

Q. Mrs. Fischer, you have testified previously by deposition have you not?

A. Yes, I have.

Q. And in that connection you did apprise the Court of your qualifications and your awareness of all the information you have testified here today?

A. Yes.

Q. Do you have an opinion as to whether or not this suggestion on these lines would satisfy and would demonstrate and would afford people of ethnic minorities and economic minorities in District 32 of a better opportunity to effectively participate in their representative form of Government?

A. Yes, I have an opinion. I think the single-menber districts would definitely help them. I think this plan or these lines at least assure them that they could effectively work and support and elect at least one black representative and have a great influence over the direction in which legislation goes and certainly the way they would vote on legislation after elected.

Q. In addition to that, both from the ethnic standpoint and the economic standpoint, would it also afford

the poor people in District 32 an opportunity to more effectively participate in the governmental process?

A. It certainly should.

Q. And by the same token, the extremely wealthy would be afforded a better opportunity than perhaps they now have in terms of responsibility, at least, to one person?

A. That's right.

MR. GLADDEN: We offer Mrs. Fischer's deposition in evidence, Your Honor, and with that the Plaintiff will pass the witness.

JUDGE JUDTICE: It will be received in evidence.

MR. MARTINEZ: George Martinez of the firm Martinez & Solis, for Gaskin, et al.

CROSS-EXAMINATION

BY MR. MARTINEZ:

Q. Mrs. Fischer, did you do a summary of Tract 3, which is mostly Precinct 50?

A. Yes, I did.

Q. That is the one that is designated as combined black-brown area?

A. Yes, it was.

Q. Can you give me the voter behavior on the black candidates in that area?

A. Now, census tract -- I have census tract breakdown. You want the voter behavior of Precinct 50?

Q. Census Tract 3, basically Precinct 50, either one will do.

A. And voter breakdown?

Q. How did the black candidates do in that area?

A. I do not have Precinct 50, as such. They were combined with all the other black precincts. I know from experience that the black candidates always come out with at least 75 percent margin.

Q. In that area?

A. In that area.

Q. And that is a combined black-brown area?

A. Yes, it is. It is one of the precincts that I used in the compilations I made on the candidates.

Q. Do you have Mexican-American statistics on voter turnout?

A. No, it is not that clear-cut evidence in Tarrant County. There are no precincts that fall--that have high enough concentration of browns in Tarrant County to actually measure the voter turnout.

Q. That's your opinion?

A. That's my opinion.

Q. Do you have any opinion as to the voting turnouts on Mexican-Americans at all based on your own experience?

A. Oh, the voter turnout is approximately the same as that of blacks from my experience. It's not as easy to find polarization in the brown vote as the black votes.

Q. Do you have an opinion as to why the voter turnout is so low?

A. Yes, I have an opinion.

Q. Would you---?

A. Well, I spent a lot of time walking precincts and registering voters, as well as campaigning with voters, mostly in the black-brown, low-income precincts, and in all three, but particularly in the black-brown, the language barrier in the brown precincts. The other is the feeling that their vote isn't going to make much difference, that it really doesn't count that much, and it is an effort they don't feel very rewarded for having made.

Q. Did you indicate you had experience working in the Arlington area, or is that just a quote you got out of the paper?

A. I live in Arlington. I have run for political office in Arlington.

Q. Would you say the browns are treated the same as the blacks in Arlington?

A. No, there's no housing discrimination of browns in Arlington.

Q. When you did your feasibility study for this "non-plan" did you take into account the browns?

A. Yes, I did.

Q. In doing it, did you attempt to maximize the strengths of their voting pockets?

A. Yes, I did, particularly in District 1 where the majority of browns live. In fact, our brown client helped me to maximize the brown voting strength in that district.

Q. In your opinion do you think it would have been possible to cut two districts instead of one to maximize black-brown strenghts?

A. Oh, you can cut them. If you make two districts with 50 or 60 percent black-brown--I think a white person would be the ultimate choice in those districts. Let me give you an example.

In Precinct 1 in Tarrant County, which is just north of the courthouse -- it is heavily black with quite a few browns. It's the census tract that has 96 percent black and brown population. Every two years a white runs, a black runs and a brown man runs, and the voter participation of the black and brown drop off so in the

runoff that the white man always get elected. I think if you draw a single-member district line with very, very close margin in the black and brown, inevitably a white will end up representing them.

Q. Wouldn't you say that's the responsibility of the candidate?

A. Of the candidate? I would say that in Precinct 1 the candidate certainly isn't responsive to the constituents in Precinct 1.

Q. I'm not talking about the office holder. I'm talking about the people that are running.

A. I have seen some very hard races run in Precinct 1 and lost by my brown friends and black friends. It's very hard to get those votes out and particularly in a runoff and particularly where there's been some polarization between the two groups in the primary.

MR. MARTINEZ: Thank you.

Pass the witness.

MR. KORBEL: I have a couple of questions, Your Honor.

CROSS-EXAMINATION

BY MR. KORBEL:

Q. I'm George Korbel, appearing for the original Plaintiffs Bernal, et al, and the Intervenors Moreno, et al.

Now, you have been liberally qualified as an expert on Fort Worth politics from reading your deposition.

In your opinion has there been a history of racial discrimination in Tarrant County which has touched the rights of Mexican-Americans and black minorities to participate in the Democratic process?

A. Yes, I would say there has in a very subtle way.

Q. And does this existence of past discrimination preclude the effective participation of Mexican-Americans and blacks in the elective system?

A. Yes.

Q. Does the use of the multi-member district in conjunction with the majority place system operate to minimize or cancel out the voting strength of racial or political elements of the voting population of Tarrant

County?

MR. YORK: Your Honor, Counsel, of course, is reading from the Supreme Court's language. I don't believe this witness has been shown to be qualified to pass on the ultimate conclusions of law to be made in the case, and we object to it.

MR. KORBEL: That's all I have, Your Honor.

JUDGE GOLDBERG: We will take the objection under advisement, as previously ruled on the other questions.

CROSS-EXAMINATION

BY MR. YORK:

Q. Mrs. Fischer, you have worked long and hard on the preparation of this exhibit and on the various other statistical data which you have gathered, have you not?

A. Yes, I have.

Q. Been busy on it for several months?

A. Yes.

Q. You would expect that anybody who wanted to run, and particularly the members of the present Tarrant County delegation who, if they were told this month, the next month or the month after, that they would have to run in

single-member districts in Tarrant County, they would likewise have to study up on what those single-member districts would consist of in terms of what kinds of voters, what kinds of income, et cetera, et cetera, would they not?

A. I would assume they would.

Q. And that would be a not insubstantial job, considering the time allowed, would it not?

A. I don't believe that they would need the detailed breakdown we had to present to the Court. From my political knowledge, and I assume any candidate or officeholder in Tarrant County has at least as much as I do and many of them more, I could look at those suggested lines and know which district I would run best in without going to a census tract or voting precinct, and I think most of them could. I don't think it would require them a great deal of time to decide where to move to get elected.

Q. Would you seriously contend that the members of the delegation know as much about the situation statistically and so on in Tarrant County as you do at this moment?

A. There's some of them that I am sure do. I feel that there are some that do not, but then I don't want to pass on their qualifications.

Q. O.K. You would agree that there would be substantially more work or at least more work, however you

want to characterize it, for them to run in single-member districts from that standpoint than there would if they were to run in the district as it is now constituted?

A. Oh, no. They could take their election returns from the last two campaigns they have run and simply pick out the area that they run best in and could run a much easier campaign than running county-wide.

Q. You believe they wouldn't have to devote any time to studying the new districts? That it would be minimal or none?

A. Practically none.

Q. Or to study the ethnic makeup and the makeup as far as income is concerned in their new district?

A. I would think it would take a very small amount of study time on their part. Most of them have lived in Tarrant County all their lives, and they should have a pretty good general knowledge of it.

Q. And if the individual members of the Legislature would differ from your view on that point, I suppose you would have to concede that they would know best how much whork they would think they would have to do?

A. I certainly would. As I said, I wouldn't want to pass on the qualifications to make that judgment.

Q. You are aware that the constitutional convention in this state begins in January?

A. Yes

Q. In Austin?

A. That's correct.

Q. Requiring hopefully the attendance of all the present members of the Legislature?

A. That's right.

Q. I'm sure you view that as a laudible purpose, a job that needs to be done and needs to be done well?

A. Yes, sir.

Q. Fully attended by the delegations from all of our counties?

A. Yes.

Q. What is the over-all Tarrant County breakdown between browns, blacks and Anglos or white?

A. It is 82 percent, 12 percent black and 6 percent brown. Now, this is District 32.

Q. That's not total Tarrant County?

A. No.

Q. I understand.

A. This is the district our present Representatives run from.

Q. You made a statement in reply to one of Mr. Gladden's questions at the tail end of his examination that you felt that a single-member district situation would allow the wealthy to perhaps gain a more direct form of

representation or a more representative form of representation as well as the poor?

A. Yes, I do.

Q. Would it be true then that you would now believe that those representatives that you might characterize as living in the wealthier districts, generally being white, generally being somewhat wealthy themselves, would your statement about that lead us to the conclusion that you believe they are influenced to some degree now by the presence of minorities in District 32?

A. Oh, I believe, knowing my delegation, that there are probably one or two of our representatives that are influenced by the views of the minorities in Tarrant County. I would not be able to say this is true of the total delegation.

Q. My point is -- do you understand the point being if you made the statement that the wealthy would be better represented in a single-member district situation, that must be due to the conclusion that the wealthy are not getting total representation now because their supposed representatives are being swayed somewhat by what the poor think? Is that right?

A. That could be assumed. I think, if you'll give me a minute -- if I lived in District 8 and were an oil man, which is where most of the oil people in Tarrant

County live, I might rather have an oil man or an oil man's son in Austin than a P.R. firm operator. That might be the choice they would want to make.

Q. Now, when you answered that question that way, I assumed that what you meant was as it now stands those who are white who are representatives, that you believe somehow they are not giving total allegiance to the rich, because they are being somehow swayed by what the poor, the blacks and the browns think?

A. No, I don't think that is an accurate assumption. I think that it's more there aren't any oil men serving in our delegation, and since the richest area in Tarrant County is predominantly oil people, that they might get an oil man to represent them then.

Q. You say only a couple of the members of your, what, nine-man delegation, pay much attention to a minority interest now?

A. There's only a couple that talk about it back home, and we haven't had that much legislation of a crucial nature come out of the Legislature in several years.

Q. Are you aware of how the delegation as a whole voted on House Bill 3 related to the open meetings law that we now have?

A. Yes, but I do not really consider that a bill that particularly -- that the black community or the

brown community or the poor community is any more interested in than the total community of Tarrant County. I think the people in Westover Hills who would have time to go to the City Council meetings are probably more interested in the bill than the black person who works from 7:00 to 7;00 and wouldn't have an opportunity to go to a City Council meeting if it were open.

Q. What about night meetings? Could some of those people make one of those?

A. They could make night meetings. Unfortunately, in Fort Worth there are no night meetings except of the School Board.

Q. And that is subject to the open meetings law?

A. Yes.

Q. Do you know how the delegation voted as far as House Bill 6 on open record, making a great number of government records open to the public, which they had not previously?

A. I don't understand.

MR. GEORGE: Your Honor, to expedite things, I would interpose some objection here.

With all due respect to Mr. York, I hope he's not going to take us through all the controversial measures of the Legislature. It seems

like we need to have some kind of ground rules about some relevance to minority interests.

JUDGE GOLDBERG: Well, he started with low numbers. Let's just see how far he goes.

(LAUGHTER)

JUDGE GOLDBERG: We may then establish some ground rules.

MR. YORK: Your Honor, there were about 2,500, bills introduced, but not all of them were passed.

BY MR. YORK:

Q. Would you think that a bill relating to the adoption of children by members of the same race, House Bill 262, are you familiar with that bill?

A. I have looked it up in the House Journal, yes.

Q. You think minority interests would be interested in that bill?

A. I think there might be more there than in the other two.

Q. Do you know that none of the members of your delegation voted against that bill?

A. I know that. I'm not sure but what there hasn't been a Court ruling on that at some point. That was

my impression at the time the bill was brought up that that was something that was being decided by the Courts, had been decided by the Courts.

Q. You think that the minority groups would have a greater or lesser interest in the right of an injured employee to select a licensed physician or a chiropractor on his own by his own choice under Workmen's Compensation Law? You think the rich whites or the poor blacks and browns would be more interested in that?

A. I think the poor blacks and browns and labor would be more interested in that.

JUDGE GOLDBERG: What number is that?

(LAUGHTER)

MR. YORK: House Bill 166, Your Honor.

JUDGE GOLDBERG: You're going back. Go ahead. What was the answer?

THE WITNESS: Oh, I think that the blacks, browns and labor---. I understand labor supported that bill and pushed for it, and I do think that that benefits any of the working people.

Q. How many of the people in your delegation voted against that?

A. I can't recall. I don't think any of them did -- maybe one.

Q. Out of nine?

A. Out of nine.

Q. What is it, without going through all these bills, what is it in terms of legislation recently that more specifically this delegation has failed to do or has done which you would say they shouldn't have done, which would indicate an unresponsiveness to blacks and browns?

A. Oh, I don't think it is what they have or haven't done on votes that have been taken, but we have not had a single member of our delegation since the 1950's who would introduce any legislation that the blacks or browns might be interested in, and when our delegation comes home to Tarrant County, they certainly don't go to the black and brown leaders to find out what legislation they might be interested in. I could name you some things they have opposed that I think the black and brown communities were vitally interested in. Our delegation voted for the sales tax. They voted for the city sales tax. These are things that the black and brown delegation from Tarrant County went on record as being opposed to. There has been no one carrying and really fighting for and getting passed a day care center bill for this state. We have lost our federal drug rehabilitation center in Fort Worth on the basis that the state was going to take it over. There has been no one in our delegation to fight to get that kind of service back in the community by the state. It's not so much how our

members vote. It's that blacks and browns and poor of Tarrant County cannot look to any member of their delegation, maybe one, maybe two, to carry the kind of legislation that they have to look to some black representative from Dallas or Harris County to introduce, and this is the lack of representation. They do not have an ear in Austin.

Q. You say that they can look to only one and maybe two?

A. That's correct.

Q. How many blacks do you say could be elected under your plan?

A. At least one, but we wouldn't necessarily lose the one or two that they now look to.

Q. They have now got one or two that they look to under multi-members, but under your plan they would elect maybe one, maybe two?

A. Plus the one or two presently serving that is responsive to them.

Q. This plan that's been suggested to show feasibility, does it pare every single incumbent with the exception of Mr. Willis?

A. No, it does not pare Mrs. Miller. I will say that until these nine lines were drawn I made an effort not to know where the present delegation lived, because I know most of them. I knew the exact location of two of them,

but I had to go the the courthouse after the lines were drawn in order to determine where they lived, and it was only then I found out that they were pared.

Q. Do you know of any studies, or have you conducted any studies to determine whether or not there is any correlation between either black or brown voter turnout in single-member versus multi-member districts? Specifically, have you made any such studies in Dallas, Harris or Bexar Counties to determine whether or not the black turnout went up when they went to single-member districts?

A. No, I haven't had time to make those studies.

Q. You haven't had time?

A. No, I have been making these studies. I haven't had time to go study another county, so I would have to say that I don't know.

Q. O.K. Is there any single one -- any single district drawn here -- what would be the greatest brown population in any of the districts that are on this map?

A. District 1 has 22 percent brown. It has every census tract in it where there is a greater than 30 percent brown except one. There's only one census tract with more than 30 percent brown that's not in District 1.

Q. What is the dropoff to the next highest

brown percentage?

A. Oh, the next one goes down to -- just a moment -- to about 7 percent in District 7, which is the northwest district, which is sort of a blue-collar working man's district.

Q. Is it your impression or view that the browns and blacks would consistently vote with each other on all issues, or is there a substantial division between browns and blacks, both in terms of personality and in terms of issues?

A. I think on economic issues they probably find a greater common ground than the white community does with either group, because they're closer in their economic problems. Other than that, I have no opinion as to---. But most of them are interested in day care, low sales taxes, the same things that I think any low-income person is interested in.

Q. Would you think that based on your experience there would be a polarization between browns and blacks? If in one of these districts that you have got there were a brown and a black candidate, would you expect voter polarization for the brown and for the black on the other hand?

A. I would imagine there would, at least when the idea is new that might happen.

Q. What is the largest black percentage in the most predominantly black district that you have drawn there?

A. It is 50 percent.

Q. And what is the dropoff to the next one?

A. Forty percent.

Q. So that given the statistics you have mentioned of voter turnout, if you assume for a moment that that wouldn't change under single member, you may disagree with that, but assume that for a moment. There would be little way for a black to get elected without substantial white support in those districts?

A. No, you have 50 percent black in District 1 and 28 percent white and 22 percent brown, so with a little support from either the white or brown, the black would get elected.

Q. And the next district?

A. In the next district there's 57 percent white, 40 percent black. I doubt that a black would get elected in that district next election, but that is the district where the black population is moving to. Two new precincts have become black in that area in the last four years, and I expect that the growth there will be greater, and it will be a matter of time until that has a high percent black.

Q. Mr. Gaskin, who has been mentioned, actually

did not carry the majority of the black precincts when he ran. He, as a black, ran and did not carry the black precincts, did he?

A. That's correct.

Q. Mr. Willis carried the black precincts by a fairly overwhelming margin, didn't he?

A. Well, yes, without a runoff. There were three candidates.

Q. And the other example -- seemed to me like you were talking about a three-to-one---.

A. Split, yes.

Q. ---split. Was that in the Gaskin race or was that Webber?

A. No, usually the black candidates gets three-to-one black votes in the black district. Gaskin did not. He got 32 percent black vote, but you have to understand that Gaskin did not have the support of the black organization nor the brown PASO nor labor, and that does make a difference in all our precincts, particularly black ones.

Q. The one exhibit which you mentioned as being used apparently by one of the Republican candidates, something to do again with the touchy subject of busing---.

A. Yes.

Q. ---when was that put out?

A. It was put out in the primary--no, in

November of last year when the Republican candidate against Mrs. Chris Miller -- and it accused her of being in favor of busing and said that he would vote against forced busing.

Q. You think it is hard at times to tell the difference between what we might call racism and just plain old dirty tricks?

A. I don't know. I have always been able to figure out racism when I see it, I think.

Q. You can tell that from Republican dirty tricks?

A. I don't believe that this candidate would have undertook dirty tricks.

Q. Oh, I'm not by any means meaning to impune that particular candidate.

A. This is the kind of leaflet that he stood in front of the bank and passed to people. I don't think we can attribute it to dirty tricks.

MR. YORK: Thank you, Your Honor.

EXAMINATION

BY JUDGE WOOD:

Q. Do you agree with Mr. Sifford that the most important element in electing a State Senator is prior public

exposure to the voters? I'm talking about State Senator, he said, and plus the endorsement of the special interests of the labor and the business community.

A. Yes, sir.

Q. You still agree that that is true?

A. I think the amount of publicity a man has had is a great factor.

Q. And the endorsement by the labor community and the business interests?

A. Labor community or the business interests.

Q. And/or?

A. Uh-huh.

Q. If you get both, you're almost in, aren't you?

A. Yes, sir.

Q. Now, what is the size of your senatorial districts?

A. They're approximately half in Tarrany County. That's a figure I haven't looked at recently.

Q. About how many would you say?

A. Roughly just over 300.

Q. Senatorial districts, of course, are single-member?

A. That's correct.

Q. All through the state. The United States

Supreme Court held that those single-member districts as they now exist and form the basis for the senatorial districts are constitutional. You are aware of that in this state?

A. Yes, sir.

Q. Would this same test that Mr. Sifford has prescribed, that is, former voter exposure -- take the case of Mr. Doyle Willis -- and the endorsement of the labor interests and/or the business community still be factor in single-member districts of the Legislature?

A. Not near as great a factor, I believe.

Q. Well, I'm going to ask you, when you're dealing with 75,000 voters, would that be a factor, former exposure plus endorsement by the labor or business community in those single-member districts?

A. I can only go back to my own experience where I have run and have worked in campaigns for City Council where we had 100,000 voters and -- no, we don't look for it.

Q. Is that a factor in Dallas? In other words, the ideal population is 75,000 people for representatives where you have a single-member district. Is it a factor under your study as an expert in Dallas County, that is prior voter exposure, as Mr. Sifford says in the senatorial district, and also endorsement of the business and labor community? Is it essential?

A. Oh, I think it is a factor. I think it would be essential in some.

Q. What about Bexar County?

Have you made any study there of whether labor endorsement, prior voter exposure and endorsement by the business community is a factor?

A. I would have to say I have not done any work in Bexar County since 1968, and I'm not that familiar with it.

JUDGE WOOD: That's all I have.

EXAMINATION

BY JUDGE JUSTICE:

Q. I have a few questions. In relation to the Tarrant County legislative delegation, are you aware of any type of legislation in the form of bills that's been offered by any member of that group which had to do with nondiscriminatory housing?

A. I don't know of one in recent years.

Q. In recent years? You mean never or you're just not aware of any, or has there been any.

A. Seems to me like there may have been one several years ago, but when I think of the people who are in

the present delegation I don't recall one having been introduced.

Q. Are you aware of any civil rights legislation that's been suggested by any member of the delegation from Tarrant County?

A. No, I do know that several members of our delegation voted against the Martin Luther King birthday resolution. None of them introduced it, but some of them did vote against it.

Q. Are you saying then that that indicates some type of hostility toward the black community's interest in that proposed holiday?

A. I don't know whether it's hostility or they just didn't really take into account what the black community felt about it.

Q. Has there been any type of legislation or any type of bill offered by any member of the Tarrant County legislative delegation relating to nondiscriminatory education as it relates to minority groups?

A. Not to my knowledge.

Q. Has there been any type of bill offered by any member of the Tarrant County legislative delegation which had to do with bilingual education?

A. I don't think any of them offered it. I know that nearly every member of our delegation -- in fact, I

think every member of our delegation did vote for the bilingual education bill.

Q. They did vote for that.

A. They did vote for it. I don't believe any of them even co-sponsored it, though.

JUDGE JUSTICE: All right, thank you.

EXAMINATION

BY JUDGE GOLDBERG:

Q. One question. My arithmetic is poor, but I arithmetically compute that the equal districts among the nine would come to 57,040. Is that right or wrong?

A. 75,045, I believe.

Q. I knew it would be wrong.

(LAUGHTER)

Q. What is the major percentile deviation now existing in the district?

A. In the district?

Q. Yes. In other words, under the proposal-- I didn't state the question accurately.

Under your feasibility exhibit -- I'm going to call it that -- under your feasibility exhibit what would be the largest percentile deviation in splitting up 39 (sic)

into single-member districts? Is that clear?

A. I believe so. You're asking me how much these district lines vary?

Q. Yes, ma'am.

A. I believe it is a little less than 2 percent. I do not have the figure, but our smallest district is 74,514 and our largest one is 75,737. There's less than a thousand people difference in all of them.

Q. How long have you been active in political campaigns in Tarrant County?

A. Since 1957 in the U.S. Senate special election is the first time I did any political work.

Q. Is it your opinion that there is an organized -- I do not mean by the term "organization" with charter and by-laws -- but is there within the broad scope of the word "organized" slate-making rules that has generally dominated the results of the legislative elections in Tarrant County?

A. Yes, sir.

Q. Upon what do you base that conclusion?

A. Well, having been around campaigns, you see people shape up on different sides of a campaign. Generally, there are two, one the labor-liberal-black-brown coalition and one the Seventh Street candidates, and they are pretty evenly divided. You know who they are within two weeks after

filing deadline.

Q. Does the so-called Seventh Street "organization" in your opinion attempt to accomodate its slate to the general ethnic groupings of Tarrant County and their legislative requirements?

A. Well, I don't think they have ever supported a black or a brown for the Legislature.

Q. Do you think it is absolutely necessary that a black or brown represent the ethnic interests of the people of Tarrant County in the Legislature of Texas?

A. I certainly do. I think that a black or brown certainly could represent black and brown and white people, particularly in a district predominantly black and brown. He knows the problems. He's lived with them all his life. I think even from a sympathetic white they just haven't had the same problems that the black and brown community experience. I think it is very helpful to have someone from the minority group as a member of the elected group.

JUDGE GOLDBERG: Thank you very much.

Now that the Court has interrogated, do any Counsel have any further questions?

MR. GLADDEN: I have, if it please the Court.

REDIRECT EXAMINATION

BY MR. GLADDEN:

Q. Mrs. Fischer, you began work on your feasibility proposal some months ago, did you not?

A. That's correct.

Q. You were aware of the fact that the original case was tried some two years ago and that there was some possibility that Tarrant County would be involved in redistricting. Is that correct?

A. That's correct.

Q. As a matter of fact, you kept up with the fact that the Texas Legislature did consider a proposed bill wherein there were proposed lines presented by several members from Tarrant County. Is that correct?

A. That's correct.

Q. And you are aware, are you not, as far back as 1961 there was a proposal introduced and suggested that single-member districts be drawn for Tarrant County. Are you not?

A. Yes.

Q. And that the members of the Texas Legislature from District 32 also were aware of this Court's ruling

in the Dallas and Bexar County circumstances. Is that correct?

A. Oh, yes.

Q. And they were aware of the Harris County single-member district legislation or the action that the Legislative Redistricting Board adopted, are you not?

A. Yes.

Q. And they are aware of that. Is that correct?

A. Yes.

Q. So they have had just as much time to anticipate some suggestion that single-member districts are coming to Tarrant County as you have. Is that not correct?

A. Oh, yes, sir.

Q. As a matter of fact, they have anticipated that and have considered legislation in connection with it, have they not?

A. Yes, and many of them used it as a campaign issue.

Q. All right. In connection with the percentile deviation, it's actually about 1.62 percent deviation. Is that not correct?

A. Yes, sir.

Q. Now then, there's one or two other questions. You told in respone to Judge Justice's question that

you were not aware of any legislation that any member of the Tarrant County delegation has ever offered relative to various ethnic priorities, did you not?

A. I thought he was saying recent legislation.

Q. In that connection, you did testify you were aware at the time of the depositions of Mr. R. C. Johnson that one member did introduce a bill back in 1959 to strike the requirement that school districts have a local option election prior to the time that they integrated public schools. Is that correct?

A. Yes, I am.

Q. Other than that one instance, are you familiar with any legislation that was offered directed toward specific ethnic needs of the black and brown community of Tarrant County?

A. No.

MR. GLADDEN: I believe that's all, Your Honor.

RECROSS-EXAMINATION

BY MR. MARTINEZ:

Q. First off, as to the bills you were asked---.

JUDGE JUSTICE: Give us your name, Counsel.

MR. MARTINEZ: Excuse me. George Martinez for Intervenors.

Q. You have been asked about a number of bills that Counsel for Defense asked you about. Do you know whether any of these bills were burning political issues in Tarrant County?

A. Probably the only one that even got much notice at all was the right to choose a physician, and that was a sort of a burning political issue among the labor organizations. I don't know that it was in the minority communities at all. The other just barely made the newspapers.

Q. Now, you have testified concerning census figures relating to single-member districts. If single-member districts were ordered, would you be willing to turn over your information to the incumbents so that they might expedite their becoming familiar with the districts that are drawn?

A You're putting me on a political spot, sir.

JUDGE GOLDBERG: What is the question?

MR. MARTINEZ: Whether or not she would be willing to turn over the information to the incumbents, so that they could become familiar with the districts.

JUDGE JUSTICE: Well, I would assume it is all in the census tracts, isn't it?

THE WITNESS: Yes, and I believe it is of record now that it has been submitted to the Court. I assume that I would.

Q Assuming that such things be ordered, shouldn't the legislators study their district prior to running? Don't they do that as a matter of course?

A Oh, most definitely. If they didn't study their district prior to running or weren't worried about what kind of districts they were going to run from, House Bill 12 would never have been passed.

Q Now, with reference to representation of the wealthy, are they under-represented at present?

A Well, I think that depends on which side of the fence you sit on.

Q In your opinion.

A In my opinion they are probably adequately represented, but I am sure that if I were in a $40,000.00

mean family income census tract and owned oil wells I would not feel like I was being represented very well by the people in Austin.

Q With reference to legislation, would black and brown voters be interested in civil rights legislation, open housing type thing?

A I think very muchly they would. I know in Tarrant County that has been an issue at local levels in City Councils.

Q Now, you testified that candidate Webber did well in the black and brown precincts when he ran?

A Yes, he did.

Q And that he did not do well in the precincts that were white?

A That is correct. He lost by three-to-one in the white precincts.

Q Are you aware that he did have the backing of the "labor-liberal" coalition?

A Yes, I am.

Q Now, it came out in depositions that I am assuming you are familiar with, and if not, let me know, that this coalition is made up of union labor, non-union labor, blacks, browns and white liberals?

A That's correct.

Q Do you have an opinion as to why that broke

down when Mr. Webber ran?

A Well, if I can refer back to the deposition, it was not my testimony, because I wasn't asked the question, but I believe Mr. Sifford was asked the question, and he said that when it comes to labor endorsement they just can't hold their voters hitched when it comes to voting for a black.

Q So even with an endorsement, they don't vote for a black. They break down along racial lines?

A Yes, sir.

MR. MARTINEZ: Thank you.

JUDGE GOLDBERG: Mr. York?

MR. YORK: Just a few more questions, if Your Honors please.

JUDGE GOLDBERG: You think you can finish in 15 minutes?

MR. YORK: Yes, sir.

JUDGE GOLDBERG: Proceed.

RECROSS-EXAMINATION

BY MR. YORK:

Q Who was the unidentified member of the Fort Worth delegation in 1959---.

(LAUGHTER)

Q ---to cast the only vote in favor of minorities that has apparently ever been cast in Tarrant County?

A I don't think he cast the vote. I think he carried the legislation. That was Attorney Don Gladden.

Q Oh. Did you forget about Mr. Gib Lewis seated across the table who co-sponsored at two sessions the bilingual education bill?

A I wasn't aware that Mr. Lewis had co-sponsored that bill. I'm sorry.

Q That's been a little more recent than 1959, has it not?

A That's true.

Q Now, is there, in fact, a slating process -- we've talked about a slating process, and all of us have read the Dallas opinion in this case, but is there, in fact, any slating process where any single group of individuals get together and decides who is going to, in effect, win the primary? Labor doesn't always get what they want, and business people don't always get what they want, do they?

A No, but I would say that they win more than 50 percent of the time, the business people do.

Q Well, and that would mean that the labor people lose something a little bit more than 50 percent of the time?

A That's correct.

Q But it's still a divided battling kind of thing that democracy is supposed to be all about, isn't it?

A That's correct. However, in the slating process the black and the brown -- they only are invited into the Counsel chambers after filing deadline. These other two groups start encouraging candidates to run prior to filing deadline, and there is a difference.

Q Well, where are the slate cards that the Seventh Street group puts out? Do you have some of those with you?

A They're rather hard to come across. They're usually -- I have only seen approximately ten in my entire political life, and I have never been able to hold onto one.

Q Do they self-destruct or what? (LAUGHTER)

A I have never been given one. I have only been shown those slate cards by people who said, "Look what somebody sneaked into my hand while I was in the Continental National Bank Building."

Q Is that the only place where they hand them out, or could it happen to you anywhere?

A It could happen to you anywhere in the downtown business district, but I have never had someone just walk up and hand them to me like they do the other kind of slate cards when they stand on the street corner and hand

them to everyone who comes by. They're rather selective.

Q Well, maybe I don't recall Mr. Sifford's testimony correctly, but you were there when the depositions were taken. Didn't he tell us he wasn't aware of any slate cards being put out by the so-called Seventh Street group?

A I think he testified, and I think that's what I am saying. They're not always put out like I've only maybe seen ten, and there's been a lot more than ten campaigns since I have been in politics.

Q How many years would that cover?

In how many campaigns have you seen ten what purported to be slate cards from this shadowy establishment downtown?

A I would say 20 primaries, but it would not be 20 primaries and 20 runoffs and 20 general elections. It depends on how often they are put out and what-not. You might say if you have runoffs it would only cover five times.

Q Well, isn't it a fact -- is there any organization you can point to downtown in the Seventh Street area where there's a president of the Seventh Street group and a vice president?

A No, it is not that kind of organization.

Q Do they have meetings where they get together and put up a sign and say, "The Seventh Street group will be meeting---?

A No, I'm sure that they don't. I know a few of the names that are very influential in encouraging certain candidates to run and in supporting those candidates if they do run.

Q Well, isn't it kind of a loose amalgamation of business people who meet from time to time who happen to commonly support some of the same candidates in elections from time to time?

A I would say that is a fair statement if you would add that they support and finance quite well those campaigns.

Q And labor people support and finance to the extent that they can their candidate?

A Yes, to the extent that they can.

Q And they have a structured organization, as I understand it. Mr. Sifford has described the council in detail on his deposition, but it is a structured organization, so that if you wanted to know who was in the more or less political arm of the Trades Council, it wouldn't be difficult to find that out?

A Yes, they have a structured organization based more or less on the democratic process. People are elected to serve on those committees in the labor organization.

Q Now, hasn't the so-called Seventh Street

group or members of the business establishment that one might think would be part of the Seventh Street group supported black candidates for the City Council in the last six to eight years?

A Yes, they have supported the black candidate for City Council, and he was elected. That was only for the City of Fort Worth, though, which has a much higher population percentage of black than District 32 does, because it is the white suburbs who are 100 percent white.

Q Do you think that the -- you mentioned in your view it was almost necessary apparently that a black represent blacks and a brown represent browns.

Do you think that a wealthy black could adequately represent poor blacks? Would he be better at it than say a poor white?

A I think a wealthy black can represent a poor black as well as a wealthy white can represent a poor white. I think that every voter will have to consider political philosophy and the background. I think if you have single-member districts, there's not going to be the choice between one wealthy black and two white people. There will be a choice between several black people, and the black community can make up their own mind.

MR. YORK: Thank you, Mrs. Fischer.

FURTHER EXAMINATION

BY JUDGE GOLDBERG:

Q I want to ask a question. In the closing days of the primary race for the Legislature, does there appear in the newspapers of Fort Worth a slate of candidates or rival slates of candidates, "Vote for the following people." Do such type of ads appear?

A Yes, sir, on occasions they do. I wouldn't say that they always do, but on occasions that is certainly true.

Q Well, when you say on occasions, you mean -- is it more frequent than infrequent?

A I would say it is more frequent than infrequent, but occasionally Seventh Street and labor has agreed not to pick on each other, and so those slates won't appear, but generally, yes there are slates. If there are not slates, there will be little individual ads signed by various prominent Seventh Street businessmen saying, "I endorse Joe Doe," and then another prominent Seventh Street businessman who will endorse Jim Lewis and so on down, so you get the idea.

JUDGE GOLDBERG: Thank you.

Yes, Mr. Gladden?

MR. GLADDEN: I have only one or two questions, if it please the Court.

JUDGE GOLDBERG: You mean you haven't exhausted Tarrant County yet?

MR. GLADDEN: The problem that I have is that in deference to Counsel I didn't go into depositions, and there has been some inquiry made relative to matters that were covered in the deposition. I would like to ask Mrs. Fischer---.

FURTHER REDIRECT EXAMINATION

BY MR. GLADDEN:

Q You made reference to the fact that occasionally labor and business do endorse or agree to "hands off" on relative slates. Is it essential that -- well, first of all, in the slate-making process is it -- even though you can't necessarily get elected by reason of being on one of the slates, is it essential that you be on one of the two slates in order to for all practical purposes have a chance of winning?

A Yes. I think in order to raise money from the rest of the community you need to be on one of those

slates.

Q And the other question. Were you present at the time that Mr. Sifford gave his deposition when he said that they have on two occasions endorsed black candidates for the Legislature but only for the purpose of attracting black votes for their white slate of candidates?

A Yes, I was there and did hear him say that.

Q And that at no time did he anticipate that the black candidates that they endorsed would win?

A That is correct.

Q And that the money that the labor community delivered over to the various candidates of their selection was programmed or divided on a who-can-win-and-who-can't-win basis?

A Yes, that's what he said.

Q And you did hear him testify to that in connection with the slate-making process of Tarrant County?

A Yes.

JUDGE GOLDBERG: Any interrogation from this side of the room?

Mr. York?

FURTHER RECROSS-EXAMINATION

BY MR. YORK:

Q Did the present State Senator, Betty Andujhar, have the endorsement of either the labor group or the so-called Seventh Street group?

A I don't know that she had the official endorsement of labor. To tell you the truth, I was so busy in that spring I didn't pay much attention to the other candidates, but unofficially Mrs. Andujhar had the help of many labor people, if she didn't have their official endorsement.

MR. YORK: Thank you.

JUDGE GOLDBERG: We shall return at 1:30 and commence our tour of Texas from Tarrant County.

(REPORTER'S NOTE: The Court then, at 12:15 o'clock, P.M., December 3, 1973, recessed until 2:00 o'clock, P.M., the same day, at which time it reconvened.)

December 3, 1973
1:49 PM

JUDGE GOLDBERG: The Court apologizes for the late tour of the State of Texas, but we couldn't help it. Before we leave Tarrant completely, is there anything in the depositions which will show us how many blacks have been supported by labor groups in Tarrant County in recent years?

MR. GLADDEN: Yes, Your Honor. The Plaintiff Escalante's Exhibit relative to the deposition of Mr. J. W. Sifford as well as Mrs. Betty Fischer will reflect that two of three blacks were supported by organized labor. But again, the deposition will also indicate that labor did not anticipate their winning, but did put them on to get out the vote for their white candidates on the slate. There is some evidence to that effect in the deposition, Your Honor. Before leaving Tarrant County, however --

JUDGE GOLDBERG: I didn't mean to cut you off.

MR. GLADDEN: Fine. At this point in time, if I may, Your Honor, a little house keeping chore, in terms of the depositions we have marked the three deposition exhibits, Mr. Johnson's Exhibit as Plaintiff Escalante's Exhibit 23, Mr. Sifford's Deposition as Plaintiff's Exhibit Plaintiff Escalante's Exhibit 24 and Mrs. Fischer's deposition Plaintiff Escalante's Exhibit 25.

We have tendered previously the slate cards, the

original slate cards which we have now identified as Plaintiff Escalante's Trial Exhibit 18A through I which correspond with the Xerox copy of the deposition exhibits.

We have previously offered in connection with the Lined question, Plaintiff Escalante's Exhibit 1G which is a census track compilation of the lines as shown on the map. And 1G Prime, which is the ethnic and economic makeup of those. We tender those to the Court. And there was no notation by the Clerk as to their being received. We would like to tender those again.

JUDGE GOLDBERG: Received.

MR. GLADDEN: At this time we would like to call Mr. Marvin Collins, Your Honor.

MR. YORK: Your Honor, before we leave that point, I think I had mis-stated something earlier to the Court about the depositions. I believe that the Fort Worth Depositions were depositions where we did reserve objections.

MR. GLADDEN: This is correct.

MR. YORK: We had followed various procedures, and I think Ft. Worth may have been the only one where we did waive objections. I'm not certain. If it would be all right with the Court, what we would like to do is tender written objections to whatever questions we would object to. I don't think it would unduly impede the proceedings or hurt anybody.

JUDGE GOLDBERG: Yes.

MR. GLADDEN: The only thing we have, Your Honor, is it puts us in a position of not knowing what evidence to defend in the event that they did tender written objections to certain portions of the depositions testimony. It makes us in a position where if it's going to be excluded we might have live testimony that could correct their objections. Now, we feel like we were the first parties that took depositions, as I recall, and we feel like that the State has had ample opportunity to know what their objections would be to the depositions and we feel like -- it puts us in a rather difficult position as to what evidence to put on.

JUDGE JUSTICE: How soon can you prepare written objections?

MR. YORK: We can have them here tomorrow, Your Honor. I doubt that they will be terribly extensive.

JUDGE JUSTICE: Well, in the event you do have objections, I assume we can hear some further evidence.

MR. YORK: Absolutely.

MR. GLADDEN: We would like to reserve that. At this time we would like to call Mr. Marvin Collins, Your Honor.

JUDGE JUSTICE: Is there going to be any contest about attorney's fees?

MR. YORK: Your Honor, I expect certainly there would be a contest as to whether the requisite bad faith has

been shown to entitle --

JUDGE JUSTICE: I am speaking of the number of hours spent in this kind of thing.

MR. YORK: As far as that end of it is concerned, we don't know what those hours are. Presumably, that wouldn't be a matter that would take this Court's time very much. We have not been advised --

JUDGE JUSTICE: I thought maybe you could stipulate. Go ahead.

MR. YORK: We may be able to.

MARVIN COLLINS,

called as a witness by the Plaintiff Escalante, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Gladden:

Q State your name to the Court, please.

A Marvin Collins.

Q You are associated with me in the practice of law, is that not correct?

A That's correct.

Q In that connection, you have had an opportunity to see and observe and participate in the preparation of this case for trial, have you not?

A That is correct, since the beginning of the -- before the case was filed.

Q And in that connection, you are aware of the time that you have spent and the time I have spent as well as the time Mr. Art Brender of our office has spent in connection with the case, is that correct?

A That's correct.

Q I have asked you to prepare and to tell the Court in terms of what time was spent, if you will do it as briefly as you can, what time has been spent by each of us in terms of attorney's time as opposed to paralegal time like Mrs. Fischer might have spent in preparing the case.

A Yes. First of all, let me say that you are a licensed attorney with almost 20 years of experience in the practice of law. I am licensed in this state and you are also with somewhat over three-and-a-half years of experience. And Mr. Brender who just graduated from law school has approximately six months of experience and assisted only in small ways in the preparation of the suit.

I have quickly made a run down and I have deliberately tried to be conservative about the amount of time we have spent. I have characterized the time we have spent first in terms of actual preparation of legal instruments. And that time totals 32.25 hours which is in preparation of the legal instruments such as complaints, briefs and so forth. In the

brief I have included the time devoted to research by the attorneys in connection with the preparation of those briefs. We have filed a number of briefs and pleadings. I have tabulated the hours, the amount of time we have spent preparing our evidence. And I have tried to be conservative about this. We have 80 exhibits that are now in evidence. And I estimate that the legal time spent in the preparation, compilation, evaluation and so forth of these exhibits was about 30 hours. There was a great deal of time spent preparing the evidence.

On the taking of depositions, the notice, preparation, arrangements for a Court Reporter and so forth took one hour. The actual time in depositions by yourself, myself and Mr. Art Brender was a total of 10 hours. Excuse me, 18 hours. Eight hours for me, eight hours for you and Mr. Brender was in the deposition only for a period of two hours.

I have calculated the accumulative time in trial that we have spent today as just a half day apiece for eight hours. And I have not included any projected amount of time that we may spend the rest of this week in this Courtroom. So far it totals eight hours.

The trial preparation, actually having conferences between you and myself and the witnesses and compiling our exhibit lists and so forth, we spent a great deal of time at that. And I would estimate that conservatively at 15 hours.

The miscellaneous items such as correspondence, I

estimate at 16 hours. And in that connection we have sent out of our office at least 36 individual pieces of correspondence. Some of them running into multi-page correspondence.

Our time on the telephone directly preparing for this case, I have estimated at five hours. There have been a number of phone calls to San Antonio and Austin and so forth in preparation for this suit.

Meeting we have had with other attorneys in preparation of this suit I have estimated at one four hour meeting which you attended and one three-and-a-half meeting which I attended in San Antonio.

The total number of hours that I have reached is 132.75.

The next part of this I have tried to be as fair as I can in allocating the time between you and myself and Mr. Brender who are less experienced. And I have estimated that your preparation time constitutes approximately 65 percent of these hours, that mine along with Mr. Brender constitutes 35 percent. And probably Mr. Brender no more than five or ten percent. He was involved in a few specific aspects, so his involvement was not as great.

I am familiar with reasonable attorney's fees in Fort Worth, Tarrant County, Texas, and to some extent in Austin. And I would say that for an attorney with almost 20 years of experience like yourself, a reasonable fee would

be $50.00 an hour. And for an attorney like myself and Mr. Brender, $35.00 an hour. And I have calculated based upon allocating 65 percent of the hours to you and 35 percent to myself and Mr. Brender that you spent 86.29 hours. We spent 46.46 hours which is about two to one. And multiplying those out, 86.29 hours that you spent by this $50.00 is $4,314. 46.46 hours times the $35.00 an hour for me and Mr. Brender is $1,626 for a total of $5,940.

In connection with the total amount here I have made a rough estimate of our expenses which we are not asking for, but just to show that there is some reasonable relationship to the hours and expenses we have had in this lawsuit, they probably would total somewhere conservatively in the neighborhood of approximately $1,200. And none of this time includes any para-legal time such as witnesses who have done much research and so forth. This is just lawyers time.

Q Incidently, neither you nor I have been admitted to practice before the Western District of Texas, have we?

A No, sir.

Q It just occurred to me, Your Honor, that we have not. And I wanted to apprise the Court of that. I pass the witness.

CROSS EXAMINATION,

By Mr. York:

Q. I might say, Your Honor, we had not intended to raise the question of who was admitted to practice before the Western District because that might cause some embarrassment to the Attorney General's table.

Who would pay this fee if it were not ordered by the Court to be paid by the tax payer?

A. There is no one to pay this fee. We have no other person in our organization who is underwriting this lawsuit.

Q. No client has agreed to be responsible for your time?

A. The clients we represent do not have the money to pay even a fraction of any of this.

Q. Any interest or entity or organization that would be likely to pay it?

MR. GLADDEN: If the Court please, I doubt that Mr. Collins is as aware of, and if I may state to the Court what the circumstances are because he doesn't handle the money in our office. I do. And if you would like for me to apprise you of what the relationship is, I would be happy to. As of this point, we have had $300.00 contributed, $200.00 by one organization and $100.00 by one of the witnesses. And other than that $300.00 that has been applied onto the expenses of the lawsuit involving our client, that's all that has been received.

And we anticipate perhaps that some of the local

liberal community may attempt to pick up some of the expenses.

MR. YORK: That's all we have, Your Honor. Thank you.

MR. GLADDEN: The Plaintiff Escalante rests it's part of the case, Your Honor.

JUDGE GOLDBERG: Did you want to ask this witness any questions?

MR. BONNER: No, Your Honor.

MR. GLADDEN: If the Court please, in connection with the handling of the Tarrant County aspects, as the Court knows two lawsuits were filed and consolidated. Mr. Bonner represents the Plaintiffs Gaskin and others. And at this point I think he does have a witness that he is going to present on behalf of his lawsuit.

MR. BONNER: Thank you. If it please the Court, I have two witnesses whose testimony I expect will be very succinct, to the point and brief.

JUDGE GOLDBERG: Let's go.

MR. BONNER: We call Mr. Bobby Webber.

MR. YORK: Your Honor, we were not provided with a witness list by Mr. Bonner to the effect that he would call any witnesses I'm aware of. The Court ordered that all parties exchange those witness lists on Friday of this past week, but we have not been provided one by Mr. Bonner. We would be forced to enter an objection to the witness's testimony

on that basis.

MR. BONNER: If the Court please, I did advise the Attorney General's Office that I did plan to ask Mr. Webber to offer his testimony. And at that point neither Mr. York nor Mrs. Levatino expressed any objection.

MR. YORK: That was this morning in Court as I recall.

MR. BONNER: That's right.

JUDGE JUSTICE: Is this an expert witness?

MR. BONNER: The witness can qualify as an expert, yes, sir.

JUDGE GOLDBERG: Well, let's hear what he has to say and let's consider--after we hear him, Mr. York, we might strike his testimony. Let's see how much surprise and shock might come to you. I don't have any machine to test it, but we will do our best.

BOBBY WEBBER,

called as a witness by the Plaintiff Gaskin, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Bonner:

Q. Would you state your name, please.

A. Bobby Webber.

Q. Mr. Webber, are you a resident of the city of Ft. Worth?

A. Yes, I am.

Q. Tarrant County?

A. Yes.

Q. Do you live in Legislative District 32?

A. Yes, I do.

Q. What is your occupation, Mr. Webber?

A. I am President of Mitus Investment Corporation.

Q. And how long have you lived in Ft. Worth?

A. I've lived in Ft. Worth all of my life.

Q. How old are you?

A. I am 36.

Q. 36 years. Turning your attention, Mr. Webber, to the spring or winter and spring of 1972, did you have occasion to consider running for public office?

A. Well, at the time I considered running for public office. I had sought to support other candidates, but when no candidates that I felt were representative of the ideals and ideologies reflected in our community that were coming forth, at this time I chose to run.

Q. And what office did you run for?

A. State Representative, place 5.

Q. From District 32?

A. Right, Tarrant County.

Q. I see. And in connection with your running for office, Mr. Webber, you did file before the deadline and you were a candidate, is that correct?

A. Yes, sir.

Q. Would you tell us about your campaign, Mr. Webber. Did you have a media campaign relying primarily on radio and television exposure, or did you rely on a more personal approach?

A. Well, when I chose to run, I wanted to win. And we tried to mount the most effective campaign that we could, including media, including professional campaign managers and personal appearances.

Q. I see. Did you have a personal approach?

A. Yes, we did.

Q. Would you describe that briefly, please.

A. Well, for instance, we felt so desperately in trying to win that we actually went downtown in the city of Ft. Worth. We rode the buses. We shook hands. We went into the community. We knocked on doors. I would say that from March 1972 until June the 3rd, 1972 I was a full time campaigner.

Q. I see. What areas of the District did you campaign in, Mr. Webber?

A. I campaigned in all areas, the whole of Tarrant County.

Q. That included areas--I may state for the record that Mr. Webber happens to be a black person.

Did you campaign in areas that are predominately inhabited by white citizens?

A. I did.

Q. I see. What such areas were those?

A. Well, we campaigned in North Ft. Worth, Tylorville, Ridgeland Hills.

Q. And others?

A. Yeah, and others.

Q. Okay. Would you give us some idea of the expenses you incurred in your campaign, Mr. Webber?

A. In my total campaign, sir?

Q. Yes.

A. I think the record will reflect that I filed my campaign expenses and we spent about $25,000.

Q. Approximately $25,000?

A. Yes.

Q. What success did you have in your campaign?

A. I lost.

Q. Well, let's back up a second. You lost, but can you tell us how you lost? In what stage did you lose?

A. Well, I poled I would say in boxes that were predominately minority. We poled I would say 90 to 95 percent of those boxes in my favor. Other boxes that were predominately

white, we didn't do as well.

Q. Did you hear the testimony of Mrs. Fischer whose analysis of the results of your race with Mr. Schieffer showed that you garnered about 75 to 77 percent of the minority vote? Were you here when she testified to this?

A. Yes, I was here. But I think if we would go back and look at those boxes, I did more than that in predominately black boxes.

Q. Are we talking about the primary election at this point or the run-off?

A. I'm talking about both.

Q. Both elections. I see. Would you give us the results of the primary? Where did you come in in the primary?

A. I was second in the primary out of a four man race.

Q. And could you tell us the races of the other three candidates?

A. All of my opponents were white.

Q. And you were second in this race?

A. Yes.

Q. And you say you lost. I take it that you were not victorious in the run-off, is that correct?

A. That's correct.

Q. I see. Mr. Webber, do you have any conclusion or opinion as to your chances of being elected to the State Legislature from District 32 in an at-large election?

A. As I said before, when I went into the race, I wanted to win. And we did everything that I think was humanly possible to win. And we felt we were financially well organized. We felt that from the experience point of view, professional people handling our campaign, we were organized there. Physically, I mean actual physical effort into the campaign, I lost about 25 pounds doing that. So, I don't see at this point how it would be humanly possible for me or any other individual to win in Tarrant County from a minority point of view.

MR. BONNER: I pass the witness, Your Honor.

JUDGE GOLDBERG: Is your shock absorber enough to take this, Mr. York, or do you want to renew your motion?

MR. YORK: Oh, I am somewhat shocked and I would renew it, but I expect the Court might take it under advisement.

JUDGE GOLDBERG: We will. Do you want to cross examine this witness subject to your objection?

MR. YORK: Yes, sir.

MR. GLADDEN: I would like to cross examine him too, Your Honor, just one or two questions.

CROSS EXAMINATION,

By Mr. Gladden:

Q. Mr. Webber, you were supported by the Labor-

liberal-black-brown coalition, were you not?

A. Yes, sir, I was.

Q. In that connection, I'd like to ask you as to economic resources. I think there is already an exhibit in evidence that shows that you spent approximately $27,000 in your campaign. I'll ask you how much of it other than your personal resources was contributed to you by the black community?

A. By the black community about $1,300 or $1,400.

Q. All right. And the balance of that was made up by contributors from the white community or your own personal resources, is that correct?

A. Yes, sir.

MR. GLADDEN: We have no further questions, Your Honor.

CROSS EXAMINATION,

By Mr. York:

Q. I have just a few, Your Honor. Your opponent in the race who ultimately was successful and who was elected to the legislature was Tom Schieffer, is that correct?

A. Yes, that's correct.

Q. What age is Mr. Schieffer, if you know?

A. Now, he must be about 26. At the time we had the contest, he was 24.

Q. All right. How did you come out in terms of the ranking? I know you came in Number two in the first primary, but how did you come out percentage wise, if you start out with Schieffer's vote and yours and how the other two came out, what percentage of the vote did the respective candidates get?

A. In the primary and not in the run-off?

Q. Right, in the primary.

A. I don't know. I don't recall. I do recall in the run-off it was about 47 percent of the vote I think.

Q. You got 47 percent?

A. Yes.

Q. And he got 53?

A. Right.

Q. So, it was a fairly close race in the run-off?

A. I wouldn't say fairly close. I think we are talking about five or six thousand votes. He beat me by about five or six thousand votes.

Q. Percentage point wise, it came out 53 to 47.

A. Percentage wise, yes.

Q. And realizing that the black population of that district is what? Around--I believe we said 15 percent?

A. 12 to 15 percent.

Q. 12 to 15. Realizing that the black population constitutes 12 to 15 percent and the brown population

substantially less than that, for the race to wind up 53 to 47 would indicate that you had fairly substantial white support?

A. That's correct.

Q. All right. And would you expect from your knowledge of politics that if you were to run again in Tarrant County or that District, your name identification in the use of media and so on that it might enable you to run an even stronger race the next time?

A. I wouldn't anticipate that.

Q. Do you not agree that there is kind of a cumulative effect that others have talked about, an accumulative effect of having been on TV in 1972 and coming back in 1974 and being on TV again and running again for a job like that?

A. I would not agree with that. We are not going to have the same set of circumstances in a future race.

Q. You mean if the Court goes single member or do you mean--

A. I wouldn't say that the same circumstances would exist. Say for instance I might not have the desire to put out the effort that I put out, and maybe this would lessen my chances for winning. This is what I'm talking about.

Q. I'm saying that assuming you were to go at it the same hard way you apparently did this time and really work at it that you got 47 percent of the vote this time, doing

it the second time that you might reasonably expect, if there is anything to the idea, that continued exposure to the public adds to your acceptance by the public, that you might well do better.

A. I think it would depend on the race and the economic capabilities of my opponent.

Q. Weren't you somewhat in a way--I know you lost and you never like to lose, but were you pleasantly surprised in some respects to get 47 percent of the vote in a race with young white in the race you were in?

A. At the time, I was not surprised in that I felt I had done my homework. And I had run as effectively as I possibly could.

Q. You ran it better than for instance the labor people thought you were going to run though, didn't you?

A. I certainly did.

Q. And the truth is, I mean this is no slight to you, but I think the testimony has been given in some of the depositions before the Court by I believe Mr. Sifford, not speaking for himself, but generally from what the labor organization did, is that your selection in a way was a thing where they said "Well, we'll put a black on because we don't think we can beat this fellow Schieffer anyway." But you kind of surprised everybody, didn't you?

A. Yes, sir.

MR. YORK: Okay. Thank you.

REDIRECT EXAMINATION,

By Mr. Bonner:

Q. Just one short matter on redirect. Mr. Webber, in your 36 years in Tarrant County, have you ever known it to happen that the candidate who runs well the first time doesn't do quite as well the second time around? Do you understand the question? In other words, have you ever known people to make a good showing the first time out, only to sort of fall by the wayside in subsequent attempts to be elected to an office?

A. I don't recall any specific instance, but I think that could be the case.

Q. One final point. You said you got about $1,400 in contributions from the black community?

A. Yes.

Q. Would you attribute that small in comparison to the total amount of money you took to the communities lack of interest in your candidacy or to the communities economic straits?

A. I think I could not attribute it to their lack of interest because I think that in checking the voting habits and voting records in the past we will find that the interest in my campaign brought out more black voters than had ever

been brought out in Tarrant County even in a Presidential race. So I would say it was a matter of economic straits.

MR. BONNER: I have nothing further.

JUDGE GOLDBERG: I have one question.

EXAMINATION,

By Judge Goldberg:

Q. Did you have occasion at any time to approach the so-called "Seventh Street Organization"?

A. Yes, sir, I did.

Q. In the interest of your candidacy?

A. Yes, sir.

Q. Tell us about it.

A. Well, after the primary, we decided to go downtown and try to line up some support because we felt that maybe some of the people who had supported the other two candidates in my race who were from downtown would support me. And I was instrumental in getting in and talking with people. And they indicated an interest in my race. And they said they would vote for me. But I didn't get any financial support. I'll tell the Court that.

Q. Did you ask them for any?

A. Yes, I asked them for financial support, Your Honor, but I didn't get any. In one instance we were called to debate before the Junior Bar Association in Tarrant County

along with my opponent. He rufused to debate with me, saying that he had everything to lose and I had everything to gain. So he refused to debate with me before the Junior Bar. I went ahead and gave a speech. And at the conclusion of my speech, the bar went on record as saying they would support me.

Q. But the contact that you made with the so-called Seventh Street Organization, you are just talking about individuals that you went to see? You didn't go before any committee or anything that would be quasi-organized in any manner, shape or form?

A. No, Your Honor, I didn't.

JUDGE GOLDBERG: That's all.

MR. YORK: I have nothing further, Your Honor.

(Witness excused.)

MR. BONNER: If it please the Court, we would like to call another witness subject to Mr. York's standing objection, to be examined by our associate, Mr. Martinez.

CARLOS PUENTE,

called as a witness by Plaintiff Gaskin, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Martinez:

Q. Will you state your name for the record, please.

A. Carlos Puente.

Q. Where do you reside?

A. 1715 Lincoln in Ft. Worth.

Q. Which census track is that?

A. Census track 8.

Q. How long have you resided there?

A. Approximately a year-and-a-half.

Q. Would you state your education for the record.

A. I received a BA degree in Political Science from North Texas State in August 1971. I just received my Masters Degree in Urban Affairs in Arlington.

Q. Within that Masters Degree, did that provide you with any specialty work?

A. Yes. It is a multi-disciplinary field. It involves economic, political science, city planning, demographic information, etc.

Q. You do have demographic experience?

A. Yes, I do.

Q. What is your present occupation?

A. I presently work as a drug Counselor in the Outreach Program the barrios of Ft. Worth.

Q. That provides you with substantial community exposure?

A. Yes, it does. My job description is to seek out and find drug abuse and drug addiction problems in the barrios.

Q. What job did you have prior to that?

A. Prior to that, I was in the city Manager's Office in Weatherford, Texas for a year although I did live in Ft. Worth. And the year prior to that, I was with the City Planning Department for the city of Ft. Worth for one year.

Q. What did you do while you were there?

A. I was a research assistant with the city Planning Department.

Q. Of course you worked with demographic material there too?

A. Yes, I did.

Q. Okay. You heard Mrs. Fischer testify about this map, did you not?

A. Yes.

Q. I believe it's Plaintiff's Exhibit 1a. Within that, could you tell us some information about census tracks 50.01, 201 and 202 that she did not relate to the Court.

A. Yes, I might point out that there is a correction that should be made on the Legislative Research Boards' map which we use as our base map. It involves Census Tracks 202 and I believe 102. There is a line that is different on an official U. S. Census map from that which is on the Legislative map.

MR. MARTINEZ: I would like to submit the U. S. Census map, official, listed as Plaintiff-intervenor Gaskins

Exhibit Number 1. I have shown it to the Defendants and the other intervenors and they have no objection as I understand it.

JUDGE GOLDBERG: When did you show it to them?

MR. MARTINEZ: As we discovered the error, Your Honor. It would be unnecessary to make this statement except that they have an error on the map.

JUDGE GOLDBERG: Go ahead.

MR. MARTINEZ: We would like to introduce that into evidence.

Q. (By Mr. Martinez:) Now, can you give us the demographic information relative to Mexican-Americans in that area?

A. In relation to census track 50.01, there is a Mexican-American population of 17.6 percent or 966 Spanish surnamed or Spanish language speaking living in that census track.

In 201, the percentage of Mexican-Americans is 20.2 percent or 614 people.

In 202, that part which was left out on the map there, there is a percentage of 39.3 Spanish surnames, Spanish language speaking or 1,946 people.

Q. So, in fact, there are other census tracks that have more than seven percent Mexican-Americans in them?

A. Yes, there are.

Q. That would provide voting strength or whatever.

A. That's correct.

Q. With relation to census track number 8, what is the percentage of Mexican-Americans there? I believe it's 8.

A. That's the track I live in. And it is 33.6 percent Mexican-Americans.

Q. Maybe I picked the wrong one. I want the one just above it. I want census track number 4.

A. Census track number 4 there are 27.7 percent Mexican-Americans residing there, or 1,610 people.

Q. So, within a fairly close proximity, there is a substantial concentration of Mexican-Americans in the area?

A. Yes, there is. And being familiar like I say with the area, and more or less walking in the area and visiting high schools on my job, I am familiar that there are some identifiable bodies within that entire north side area that go by different names. For instance, in census track 50.01 there is Diamond Hill. There is Laloma. All of these bodies are contiguous with each other, and as a whole they do represent the north side of Ft. Worth.

Q. Okay. So, granted that this map, this non-plan as we have described, this feasibility plan, assuming that that was a possible, that there are many different ways of drawing this map, as a matter of fact, there are ways to draw

the map to better maximize minority representation?

A. I believe that's true.

Q. Now, within the brown community, the Mexican-American community--and by the way, would you characterize your ethnic background for me?

A. Mexican-American.

Q. Mexican-American. Within the Mexican-American community, is it conceivable that they would vote for other minorities if they were placed in single member districts together with other minorities?

A. Yes, I think it's very conceivable.

Q. And do they have communities of interest that would make voting together a problem?

A. Yes, I think there are a number of communities of interest of both minority communities in addition to the ethnic factor.

Q. Okay, would you state those factors to the Court that you think would be relevant and would bring the voting strength together.

A. Well, in terms of police behavior, I believe that's one. In terms of local health services. In terms of housing patterns or housing discrimination, job discrimination. In terms of education, of financial aid to education by the State. The whole area has a common interest between the black and brown communities or the minorities communities as a whole.

Q. Well, do you think it would be proper, in your opinion by maximizing the minority representations in the area that some of these things might receive some attention?

A. Yes, sir, I do.

MR. MARTINEZ: We pass the witness, Your Honor.

MR. YORK: We have no questions, Your Honor.

JUDGE GOLDBERG: Are we through with Tarrant County now?

MR. BONNER: I believe so, Your Honor. May it please the Court, we have no more live witnesses to offer. However, Professor Cotrell has been engaged by all of the Plaintiffs to act as a statewide expert. And subject to the Court's approval, subject to there being no objection from the Defendant, we would like to reserve the right to question him when he comes on with regard to Tarrant County.

JUDGE GOLDBERG: That's perfectly all right. You don't object to that, do you, Mr. York?

MR. YORK: No, sir. I think we earlier urged upon the Court that we thought each county should be taken county by county, but that's been ruled upon and we have no objection to this procedure.

MR. BONNER: As a final point Your Honor from Plaintiff Gaskin, we also ask for Attorney's fees. However, in the interest of brevity, we would request that we be allowed to submit a written statement or stipulation as to the time

actually spent in preparation of the case instead of live testimony.

JUDGE GOLDBERG: You had better prepare such a stipulation and present it to Counsel. We will hear from you on that before we terminate the trial.

MR. BONNER: Yes, that's perfectly all right.

JUDGE GOLDBERG: Now, are we finally through with Tarrant County?

MR. YORK: I hate to rise.

JUDGE GOLDBERG: I hate to see you.

MR. YORK: We have Mr. Gib Lewis from Tarrant County that we would like to call.

JUDGE GOLDBERG: Proceed.

GIBSON LEWIS,

called as a witness by the Defendants, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. York:

Q. Would you give the Court your full name, please sir.

A. Gibson Lewis. I go by Gib.

Q. And you are presently a State Representative from Tarrant County?

A. Yes, sir.

Q. Which place did you run for?

A. Place 4, District 32. Place 4.

Q. What had been your background, just very briefly, before you ran for this political office?

A. Basically it would be involving civic activities. I served a term on the City Council of River Oaks. Just civic involvement.

Q. And what is your business or occupation? I assume that you are not a full time legislator?

A. No, sir. I own the Lewis Staple & Label Products. And I am involved in several other businesses.

Q. All right. When did you first get elected to the Legislature, please?

A. In the 62nd session.

Q. And that would have been the session which began in Austin what year?

A. It would be '69 I believe it was.

Q. All right. Were you opposed in that election?

A. Yes, sir.

Q. By an incumbent or by--

A. By an incumbent. Right, sir.

Q. Who was the incumbent?

A. Bob Burnett.

Q. All right. In the primary, were there any blacks or chicanos?

A. In our particular race?

Q. In your primary?

A. No, just myself and Mr. Burnett.

Q. All right. Then did you have a Republican opponent?

A. (Short pause.) Yes, I did.

MR. GEORGE: I don't know whether to object to that answer or not, Your Honor.

A. I was trying to recall his name.

Q. Did you have opposition the next time you ran?

A. Yes, sir.

Q. Were there blacks, browns or whatever in that race?

A. No.

Q. Then did you have Republican opposition this last time?

A. No, sir.

Q. When you decided to run for the legislature from Tarrant County, who did you go to see or who came to see you? How did it come about that you deciced to run?

A. Probably a fellow Councilman of mine that I served with on the City Council, a local service station operator and my next door neighbor were probably the three dominating factors as far as talking me into running.

Q. Were any of these people card carrying Seventh Street Gang members?

A. No, sir, they sure weren't.

Q. What is the situation? You have heard some discussion here in the Courtroom this morning about the Seventh Street Group or whatever it is. What is it that the people are talking about when they talk about the Seventh Street Group or the downtown bunch?

A. I feel it is probably a mythical group because I have never had anyone who has told me about their membership in the Seventh Street Group. I've never been approached by them. I have never solicited funds from anyone that was classified as a member of the Seventh Street Group. And I'd like to find somebody who knows who they are, what names that they consist of. I have heard like this Court has heard today about the Seventh Street click, but I know myself personally I have never seen a slate card or any kind of group from one so-called Seventh Street, or whether or not they represented any particular governmental entity or anything like that. To me, like I say, if they exist, I don't know the membership of their existence.

Q. Seventh Street I assume is one of the downtown streets in Ft. Worth?

A. It is the downtown area. It is the primary business area in Ft. Worth.

Q. All right. What about the situation with regard to the labor group? Is that more clearly organized or defined in your mind?

A. Oh yes, sir. Yes, sir.

Q. Let me ask you about one thing. This reporter is going to shoot both of us if we talk at the same time because he can't get it down when both of us are talking at once.

What is the difference or what is the organization as far as the Labor political arm is concerned?

A. The different unions or labor organizations have a different type of organization. I think one is called CAPS. Each basic labor organization has a committee that becomes involved in local matters. They do a good job of it I think.

Q. Is that a fairly clearly defined thing in the sense of it being an organization that has got a committee that you could find out who is on the committee and it has got a Chairman of the committee that one can find out about?

A. Yes, sir. They have a screening committee that screens all candidates. And they choose what candidates they select from this group.

Q. What is your impression on the organization point for minute of the PASO organization? Is that a vague shadowy thing that nobody knows anything about?

A. No, sir. It is a very prominant Mexican-American organization in Tarrant County that is concerned with the needs of the Mexican-American community. And they screen candidates also. All candidates are invited to their screening committee session I guess you would say and they are given a

chance to express themselves and be cross examined by members of the PASO group.

A. All right. Now, a statement has been made in Tarrant County that it is pretty well necessary to have either labor behind you or what you think of as business behind you if you expect to win. Do you agree with that or do you not agree with it?

A. I would say very much. I have seen Mrs. Andujar who is a woman Republican. She was elected at the general election to a Senatorial seat. She didn't have a labor, industrial or business endorsement or anybody's endorsement that I know of except herself and a few fellow Republicans and they are hard workers. I know myself when I first filed and ran, I had the support of labor and several of the other organized organizations I guess you would say. And it is benefiting to know that your purpose, in what you believe in is what they believe in. I think this possibly has more of a heart warming effect than anything else to know that you have got that support. And sure, they are going to have some effect. But at the same time, I don't think this is the definite basic making policy as far as an election is concerned. It takes a lot of going to see people and shaking a lot of people's hands and telling them what you stand for and what you feel State Government should be.

Q. I take it that in most races, maybe some of the time

this is not true, but a great deal of the time at least that the labor group would be at odds with the business group in the sense that they would not both be endorsing the same candidate, or is that true quite often?

A. I'm sure its true.

Q. How has that battle come out? Has it always come out on labor's side or has it always come out on the business side or is it kind of just a general free for all fight?

A. I would say it is pretty much of a free for all fight. I wouldn't say that labor dominates and I wouldn't say that business dominates.

Q. You are of course 30 miles from Dallas?

A. Yes, sir.

Q. And I know you have read this Court's opinion relating to Dallas. First of all, are you familiar with the slating procedure as it at least was used and perhaps still is used in Dallas County?

A. Yes, sir.

Q. Is there anything top, side or bottom in Ft. Worth that resembles that in your view?

A. You mean as far as they call the Good Government League or whatever?

Q. Right.

A. No, I don't feel there is anything in Tarrant County that even resembles it one way or the other.

Q. Is there a group of kingmakers or power click or coalition or whatever it is that has got a strangle hold on who gets on the ballot in Tarrant County or not?

A. No, sir, I don't feel there is. I ran in two elections. If they exist, they certainly haven't approached me and I haven't approached them.

Q. All right. Now, in your campaigns, have you and did you seek support in the black community?

A. Yes.

Q. By what means?

A. By contacting, by talking to some of the leaders in the black community, what I considered to be the leaders in the black community to find out what some of their problems are and trying to respond to what I possibly could do. I appeared wherever they wanted me to go. Anytime someone would ask me to be there or wanted me to present something. I worked these precincts, the black precincts very hard as a matter of fact. I appeared at several churches and civic organizations throughout the black community. I did in the last two elections.

Q. Did you get an invitation at lunch today to appear at one of those groups?

A. Yes, sir. R. C. Johnson, he asked me to come out to see him sometime. He is the President of the Precinct workers. I advised him that I would.

Q. Have you spoken to that particular group before or visited with them?

A. Yes, I have spoken to the precinct workers. Some of the finest friends I have are precinct workers.

Q. All right. Do you have an opinion that you could share with the Court as to why people generally appear to be more apathetic about voting in the State Legislative races than they do--we know statistically that fewer people vote in state elections than they do in Presidential elections and dramatically less. I'm not talking about blacks or whites or browns, but do you have any opinion about why people generally are somewhat apathetic about those races?

A. The question is there and I have asked myself that question. This is not a true conviction of what I believe, I'm not saying this is what I sincerely am convinced of, but a lot of people will say "Well, politicians are all crooked and I want to get away from it." A lot of people say "I wouldn't vote for you because I think all politicians are crooks." This is their feeling towards the legislature. I think of course in a Presidential race there is more interest than there is in legislative races probably.

Q. Is it true that part of the problem of the apathy in that area is perhaps a general misunderstanding or a lack of understanding about what it is that a representative in a district does in Austin?

A. I think so because I have people many times say "Why aren't you in Washington?" And "How are things up in Washington?" "What are you doing home?" "I thought Congress was still in session." I have this happen to me daily by people who I consider very learned and who I thought knew the difference between a State Legislator and a Senator in Congress.

Q. Do you have an opinion on whether or not single member districts just by themselves without anything more would be likely to particularly decrease that apathy on the voters?

A. I don't feel so. Of course my personal opinion toward multi-members--my stand is not endorsing single member or endorsing multi-member. I consider the fallacy of each. And the way I look at it, each person who has introduced a proposal or plan has done so from somewhat of a selfish motive. This group, they want to introduce their single member district proposal because they feel they can elect one from that particular group. And this group over here introduce a plan because they think they can gain more strength in that particular area. I think that this is a fallacy that does arise through going into a situation where they are in a a single member district. I think that each member of the legislature should be responsible to the people that he serves in the County. I don't like to polarize my

self in a particular district or particular area of the County where I don't feel like I have the opportunity to represent the people on the other side of the town. I have the same common interest as far as sharing the same city, the Courthouse, the same facilities in that town. And I don't think I should isolate myself out of one particular district and just be concerned with that district. I don't think you are doing what you should do being a representative of the whole county and the people in the whole county and the people of the state.

Q. We have talked about polarization in the context of Tarrant County. We have heard that term used. From your experience in the Legislature, have you seen any what we might call polarization?

A. Yes.

Q. For instance in the delegation from the single member district counties?

A. I think very definately this past session polarization as far as members from some of the single member districts and largely the metropolitan counties. I think Harris County is a pretty obvious example as well as some of the other major counties that went single member. I've seen representatives that made philosophical or political decisions because another group was saying that the blacks would come with a bill or proposal and the conservatives or the so called conservatives or liberals, some of the other groups would be

against it. What I'm saying is that say the Republicans offer a bill, the blacks would vote against it just because it was offered by the Republicans, or the liberals would vote against it just because it was introduced by the Republicans.

Q. Referring if I might for a moment to the feasibility study that has been discussed, who, among the present 9 member delegations, does not get paired with an incumbent under that study?

A. Well, in reference to some earlier testimony, I say Mr. Willis and Mrs. Miller, Chris Miller.

Q. Does Chris Miller live in a poor getto type area?

A. No, sir. She certainly doesn't.

Q. How would you characterize the area that she lives in?

A. I would say the upper income class.

Q. Do you think it's just a matter of happenstance that Chris Miller and Mr. Willis were the only ones who were not paired with incumbents on that chart, or would you have to work at it to get to that point?

A. Well, of course I've got my own personal feelings about that particular map. Personally, I feel it was drawn to save two house members districts, to keep from pitting them against anybody else. Now that's my personal view. I think it was an obvious attempt to preserve two incumbents and pair all other incumbents.

Q. Okay. Thank you, Mr. Lewis. Let me ask you just right quick about a list of bills. There are only, if your Honor please, about 10 of them. I will try to do it in a very short hand fashion. You have looked at a list, in fact a little while ago to speed it up I asked you to look at several bills, which bills themselves and the votes will be put in evidence.

A. Yes.

Q. But House Bill 3 relating to the requirement that meetings of Governmental bodies be open to the public, how did you vote on that?

A. I voted for it.

MR. RICHARDS: May it please the Court, we object on behalf of the several Plaintiffs that we represent. We think that they are not bills necessarily addressed to particularize the minority groups that we represent. And by sitting silent, we don't mean to acquiesce in any inference that these bills are reflected--

JUDGE GOLDBERG: You will have ample opportunity to cross examine him about anything you want to about these bills, Mr. Richards.

MR. RICHARDS: My point being I want to get my objection in at this stage.

JUDGE GOLDBERG: Overrule the objection.

Q. (By Mr. York:) Are you aware of how the browns

and blacks in the Legislature generally voted on that bill?

A. They voted for it I'm sure. I might point out, Mr. York, that I myself took a survey of how myself and several of the other members of the Tarrant County delegation voted in reference to the black members of the House of Representatives. And surprisingly, we all voted alike, right down on every basic issue.

Q. This is not marked and not in evidence, but are you referring to the study that you did relating to about, it looks like about 15 or 20 bills?

A. Yes. My main concern, I had always considered myself to be a representative of the people and representing everyone on every issue. And I wanted to see if I was being charged with discrimination where I was discriminating, where and when and for what reason. I wanted to clear up my own mind and that's the reason I made this survey myself.

Q. Looking through that list without going through each one, there are about 15 different bills, did you select them first of all as issues that would concern the black and brown communities?

A. Not really. I took just basic legislative bills that were the basic bills introduced. In fact, I instructed my secretary without her knowledge of what the survey was even for. I wanted to take all of the basic bills and see what my voting record had been in comparison with the others.

MR. GLADDEN: If the Court please, we'd like to object to any reference to this exhibit until we have an opportunity to examine it to see the bills that they have made reference to. While I appreciate the fact that the exhibit was not tendered to us so that we could have an opportunity to see what the basic bills considered, what he considered to be basic, we object to any reference to any item which is not in evidence and not tendered for our examination in order to cross examine the witness relative to those matters.

MR. YORK: Well, we'll just go down them point by point then.

Q. (By Mr. York:) House Bill 1 relating to the establishment of an ethics commission, how did you vote on that?

A. I voted for it.

Q. How did Eddie Bernice Johnson, Paul Ragsdale, Symphonia Thompson, Micky Leland, G. J. Sutton, Chris Miller and Doyle Willis vote?

A. Those votes are there, and I would hate to-- I think they all voted for it or were absent. Eddie Bernice Johnson from Dallas voted no. Paul Ragsdale voted no. Symphonia Thompson voted no. Micky Leland was absent. G. J. Sutton from Bexar County voted no. Chris Miller was absent. Doyle Willis was absent. I was the only one who voted yes on that particular bill.

Q. What is the next bill? We won't go through that entire list, but just pick out three or four that seem appropriate.

A. House Bill Number 2, we had as I recall 10 so called reform measures that were introduced. House Bill Number 2 related to activity of persons engaged in legislation or administrative action. And all of the members voted yes on House Bill Number 2.

House Bill Number 3, all members in question here voted yes.

House Bill Number 4 all voted yes.

MR. GLADDEN: If the Court please, I would like for him to identify the nature of the legislation.

MR. YORK: Mr. Gladden is somewhat unfamiliar with this legislative process.

Q. House Bill Number 3 was relating to the requirement that meetings of Governmental bodies be open to the public.

House Bill 4 related to

House Bill 5 related to the authority of certain legislative congressmen. And they all voted yes except Symphonia Thompson who was absent that day.

House Bill 6 relates to the accessibility of information

That was for opening the records.

Q. Let me ask you and to short cut it a little bit, do you have house Bill 147 on your list there?

A. No, I don't. I co-sponsored House Bill 147.

Q. Was that the bill relating to supplemental aid for adult education?

A. Yes, it was.

Q. Did you sponsor that?

A. I co-sponsored it. I might point out that I co-sponsored the bilingual education bill for the last two sessions with Mr. Carlos Truan.

Q. Mr. Truan of Nueces County?

A. Yes. This was the first time it had been introduced to my knowledge. I was one of the co-sponsors of it. And this past year I also co-sponsored it.

JUDGE JUSTICE: What exactly does this bill provide for?

THE WITNESS: It is a bilingual education bill.

JUDGE JUSTICE: What specific portion of this vast field does it cover?

THE WITNESS: Basically, it's the language difficulty that has been experienced in the Mexican-American schools, I mean in the public schools as far as the Mexican-American population. In other words, it is giving bilingual studies in bcth languages.

JUDGE JUSTICE: What specific provision is made

in the bill? You are the author of it.

THE WITNESS: I don't follow you, sir.

JUDGE JUSTICE: Well, what provisions does it make?

THE WITNESS: It makes provision for State funds to be spent in this area.

JUDGE JUSTICE: What grades?

THE WITNESS: What grades?

JUDGE JUSTICE: Yes.

THE WITNESS: The elementary grades.

JUDGE JUSTICE: Only?

THE WITNESS: Well, there is an escalated plan involved in it to where it can--well, it's for the elementary grades and also we have an adult grade where they want to cut off--

JUDGE JUSTICE: How much funds are involved?

THE WITNESS: I don't know at this point. I don't know, sir.

Q. (By Mr. York:) Would the funding be a part of the appropriation act?

A. Yes, the funds are to be a part of the appropriation act. I did have those figures, but I would hate to make a guesstimate on it.

Q. All right. How about House Bill 166 relating to the right of an injured employee to select a licensed physician

or chiropractor of his choice?

A. I voted for that bill.

Q. How did the black representatives that we mentioned a moment ago from the surrounding counties or the other counties in the state vote on that bill?

A. Let's see, we all voted yes on that bill.

Q. All right. What about House Bill 417?

A. 417?

Q. Accepted trade practices and consumer protection.

A. I don't have that bill listed here.

Q. The record shows that the only one from Tarrant County voting against was Mr. Charlie Evans?

A. Yes. I recall I voted for it.

Q. All right. Do you recall House Bill 750 relating to the posting of prescription prices for drugs?

A. Yes.

Q. How did you vote on it?

A. I voted yes, in favor of it.

Q. How did the blacks and the browns around the state vote?

A. I'm sure they all voted for it because Mr. Micky Leland who is a black from Harris County was the sponsor of the bill.

Q. How about House Bill 331 setting a penalty for conducting a child care center or a child placing agency without

a license?

A. I voted for that. That was 331.

Q. Yes sir.

A. All members in question voted yes, in favor of that bill.

Q. How about Senate Bill 506 relating to the establishment of a crime and narcotics education program in the schools?

A. I don't have that one listed. I don't recall how I voted on it myself, I'll be honest with you.

Q. All right. The records otherwise indicate that no one from Tarrant County voted against it.

A. Possibly. I don't recall.

Q. One last question or last couple of questions, Mr. Lewis. Of course we all know that the constitutional convention is coming up in January. Do you presently--oh, I started to ask you about whether you were going to run again, but you may not have told anybody about that yet. Don't tell us if you don't want to.

A. No.

Q. Let me ask you in the abstract. Would, in your view, an incumbent or any incumbent were to be told that in January or December or whenever that he would have to run out of a new district that would be carved out of Tarrant County but it would be a new district which would not be known to him

now, what if any difficulty would that pose to the members if he had to file and run under a new single member district, keeping in mind that the constitutional convention is set for January?

A. Of course any changes made in the present structure is going to be an extreme handicap to any of the incumbents this coming year because the incumbents of course will be here sitting as a constitutional convention, but I don't see where going to a single member--sure, it's going to cause a lot of handicaps because it is something new, you are going to have to find out where your boundaries are, who you are talking to, and it's going to be an extremely hard thing to do. Of course, if you do your job like you should, I think most incumbents probably wouldn't have any trouble running from a single member district. But at the same time, sure, it's going to reflect a lot of hardship and difficulty as far as finding the boundary lines and finding the geographical makeup, the minority makeup and anything else in the district, knowing who you really represent and what it's going to mean.

Q. For the record, is the matter of single member districts one of the subjects to be taken up at the constitutional convention?

A. Yes. In fact, it was taken up or it was acted upon three seperate times this past legislature, this last session of the legislature. It was introduced and of course

as the legislative process stands, the 2500 bills that get introduced, of course you can't get all of them up to take action on them. Of course what we try to do--Of course I introduced single member districts at the time myself because I felt that the legislature has pretty much been instructed or given an indication the way they should go, that is, to single member districts. And the motion was made on three separate occasions to bring single member districts up for action on the house floor. But it requires a two-thirds vote and it fell short by only a couple of votes each time it was brought up. And the reason it fell short was those--A lot of single member districts at this time felt that it would have some effect on them, so they were reluctant to vote for the plan. Of course we had those who felt that we should let the Federal Courts do it and perhaps things would be better as far as they were concerned. There is a lot of interworkings in this thing, political workings on the thing that I wouldn't care to go into because it might reflect on some of the people who are sitting right here in this room. I wouldn't want to intimidate them one way or the other.

MR. YORK: Thank you, Mr. Lewis.

CROSS EXAMINATION,

By Mr. Gladden:

Q. If it please the Court, Don Gladden representing

Escalante, et al. Gib, did you attend the cocktail party just this last week in connection with honoring Representative Bill Hillard from our district?

A. No, sir, I did not.

Q. You did not?

A. No, sir.

Q. And are you aware of some of the people that may have attended?

A. No, sir. I heard it was well attended, but I didn't ask who was there or nothing.

Q. Do you suppose if you had gone you might have met some of the Seventh Street crowd?

A. Well possibly. If there had been some of Seventh Street people there, I'm sure I missed them.

Q. All right. In connection with these district lines, the lines that have been developed here by earlier testimony, I would like to kind of correct a little bit of the testimony as to who was paired up with whom. I believe the testimony was--

MR. GLADDEN: May I approach the map, Your Honor?

JUDGE GOLDBERG: Mr. Gladden, I don't want to cut you off, but this exhibit was introduced as I understand it for the purpose of showing that there is one way of doing it. It doesn't represent as I understand it anybody's final judgment as to the way it ought to be.

MR. GLADDEN: This is true. I would like to develop very briefly an error that was committed this morning as to who was paired with whom.

JUDGE GOLDBERG: Go ahead. I think it almost borders on the irrelevant as far as I'm concerned. Go ahead.

Q. (By Mr. Gladden:) As to 32-5 up there, Charles Evans is not paired, is that not correct?

A. Yes. You are right.

Q. And as to 32-7, Dave Finney is not paired.

A. David Finney and myself, yes.

Q. And Chris Miller. And so the actual pairing is these three and these two.

A. And these two.

Q. Five are paired and four are not, is that correct.

A. Right.

Q. All right. Now then, in connection with when you were first elected, actually you were elected in 1970 and first served in 1971, is that right?

A. Yes.

Q. Instead of '69. All right. And you have testified that you are in favor of single member districts, is that correct?

A. Yes. Let me restate that, if I may because I can see the benefits of single member districts at the same time I can see the fallacies of single member districts. And I

think basically the reason that I'm testifying here today is I feel that there should be constitutional guidelines set out by the constitution that the legislature should redistrict and that they should do it as they have been instructed to. And of course as far as single member districts are concerned, as everyone is concerned, they feel and the delegations we should go single member districts. Therefore, I feel that that's what should come about.

Q. Mr. Lewis, in October of 1971 at the time that the Legislative Redistricting Board was meeting, you told a Ft. Worth Star Telegram reporter that you favored multi-member districts, felt that the legislative Redistricting Board would adopt a multi-member district because it is in the best interest of Texas. Nobody wants single member districts but people from Harris and Dallas Counties.

Do you remember making that statement?

A. I sure did.

Q. Okay. In June of 1972, you actually had to move in to this multi-member district and move out of a single member district in order to get into District 32.

A. I had to change my address in the multi-member district.

Q. All right. In June of 1973, following the Supreme Court's reversal in part of the original case, you told a newspaper reporter "I don't look for Tarrant County to go to

single member districts for the next 10 years until we have a new census count." Isn't that correct?

A. That's true. In reference to the Supreme Court ruling, I felt as this was the intent of the Supreme Court ruling was to leave the legislative redistricting lines as they were. That's the way I interpreted the ruling. This is why I made that statement because they asked me what I felt about it. I said in reference to the Supreme Court ruling as it stands right now, they held Harris County, Bexar County and Dallas County attacked, and felt that Travis County and Tarrant County and the rest of the multi-member districts would stay the same as they were. This was my own opinion and the opinion of many others.

Q. And it's your opinion also that unless there is some Federal Court action that there won't be a redistricting plan adopted by the Legislature for single member districts in Tarrant County.

A. I think there will be a redistricting plan introduced. I think the legislative process, those who instigate the single member districts and will have their day in the Legislative Halls. And it is conceivable to everybody concerned, I think it would be adopted. If not, I think it will be defeated just like all other bills in the legislature are concerned.

Q. Mr. Lewis, on June the 18th, 1973 when you said

"I don't look for Tarrant County to go single member district for the next 10 years until we have a new census count," were you expressing an opinion as to what the legislature would do?

A. I was expressing the consensus of what I read out of the Supreme Court ruling.

Q. And what the Legislature would do in response to it, is that correct?

A. Not necessarily. I'm just saying that my comment was strictly to their decision at that time.

Q. Mr. Lewis, you were supported both in 1970 and 1972 by the organized labor liberal slate, were you not?

A. Yes, I was.

Q. All right. And your first race against the incumbent was a very close race, was it not?

A. Yes, it was.

Q. All right. Do you feel that you would have had any meaningful chance to have gotten elected had you not had the labor-liberal-black-brown support?

A. They definately I will say elected me, if you want to get down to the basics of it. Yes, without their support as close as my race was, without the support they gave me I would have been defeated.

Q. Now, you mentioned Mrs. Andujar. She actually ran in a senatorial district that encompassed only about half

of District 32, is that correct?

A. Yes, sir.

Q. She does not run district wide as far as District 32 is concerned?

A. No, sir.

Q. All right. I would like to ask you, Mr. Lewis, do you feel that it's almost essential for a candidate from District 32 to have a probability of success within the district to receive the support or endorsement of either the labor-liberal-black community or the business community?

A. Restate that. Whether or not his success depends upon whether or not he has the support of one or the other?

Q. Yes.

A. I don't know. I'll say no to that question. I'll say this, that all of the support you can get certainly helps. I don't know of any politician that is running for public office that has ever turned down any support. And I say all of it helps. Now, how much it helps, I don't know because I know a lot of times I have had people say "I'm going to vote against you because you are endorsed by labor", and at the same time I have heard people say "I'm going to vote for you because you are endorsed by labor." They can vote for you or against you. Who knows what the effect can be. You can win or lose just as easy.

Q. Mr. Lewis, in that connection, do you recall when

the last person elected to the legislature that was not supported by either the business community or the labor community in Tarrant County?

A. I feel Mrs. Andujar is a good example.

Q. You testified that her senate seat is just only about half of that. Can you tell me any member of the legislature?

A. I don't know of a Legislator that doesn't have one or the other support. I'm just trying to recall back.

Q. That's what I've asked you to do.

A. I would venture to say that there have been. As far as particular individuals now, I don't know any particular individauls that have won. I'm sure you know of some of those who have had labor support and did not win. And at the same time, those that anyone else would endorse. I know there have been instances of that. We have spoken of Bill Hillard. I don't know if Bill Hillard had labor support this year or not, but he won.

Q. Can you think of anyone who did not have either the business community support or labor's support that were elected to the House of Representatives since you've been keeping up with the legislature, Mr. Lewis?

A. I don't know what you would call business support or labor support. I know what labor support is, but I don't

know. I'm a business man and I don't know what business support is because most business men vote Republican. So, I don't rely on business--being a Democrat, I don't rely on business for support as much as you might think a candidate should.

Q. Most of those business men vote in the Democratic primary from Tarrant County though, don't they?

A. I don't necessarily think they do. I think you will find the same percentage of vote in the general election. I think you have more active democrats than Republicans in Tarrant County. I think that's it.

Q. Mr. Lewis, as to representation of the ethnic minorities, you have testified that you co-sponsored Mr. Truan's bill on bilingual education.

A. Yes.

Q. How many committee hearings did you attend in connection with that legislation?

A. I attended three.

Q. All right. Now, I'll ask you whether or not you prepared any amendments to or assisted in the drafting of that legislation?

A. No, Mr. Truan had pretty well drafted the bill and it was pretty concrete when we introduced it. He approached me, he said "will you co-sponsor this bill?" I said if it's a good bill I will certainly co-sponsor it with you. I worked

the floor and I worked the committee members for it's passage.

Q. All right, did you speak on behalf of the bill on the floor?

A. No, I did not. None except Mr. Truan himself spoke for the bill.

Q. That bill passed by a margin of 130 to 8?

A. The first time, it was defeated soundly.

Q. All right. In this last session of the legislature?

A. In the 63rd session, they did pass it.

Q. By a margin of about 130 to 8, did they not?

A. I think so. It was very well received.

Q. How did you vote on the resolution relative to the Martin Luther King Birthday?

A. I think you will find I voted against the resolution the same as you will find me regularly voting against any recognition of birthdays that was introduced.

Q. As a State holiday?

A. Right.

Q. Can you recall what other state holidays you voted against in this last session?

A. Oh, I believe there were about three. I don't recall them right now. But when you start recognizing State holidays, you are opening up as the expression goes a can of worms.

Q. Did you vote for the one creating the State holiday

on Lyndon Johnson's birthday?

A. Yes, I did.

MR. GLADDEN: I pass the witness. I have no further questions.

CROSS EXAMINATION,

By Mr. George:

Q. Jim George, counsel for the Republican Plaintiffs, Doctor Willeford, intervenors Sears and Holliday in Tarrant County.

Mr. Lewis, I have a brief list right quick. Did you introduce a bill dealing with equal open housing legislation in the last session of the Legislature?

A. No, I did not.

Q. Did you introduce a bill dealing with the integration of the public schools?

A. No, sir, I don't recall those two bills.

Q. You didn't introduce them?

A. I don't recall those bills being introduced during this past session.

Q. Did you introduce a bill dealing with the employment discrimination, that is, discrimination on the basis of race by employers of less than 15 employees?

A. No, sir.

Q. You did not?

A. No sir.

Q. Did you introduce a bill dealing with access to public facilities not engaged in interstate commerce?

A. No, sir.

Q. You did not?

A. I don't recall that bill being introduced either, sir.

Q. Two final questions. Did you introduce a bill dealing with the establishment of a drug abuse treatment facility in Tarrant County?

A. No, sir, I didn't. I think you will find, Mr. George, most of those bills are handed down by Federal action. One reason they are not introduced on the local state level.

Q. The scope of the Federal legislation, the Court is well aware of.

A. Well, Federal legislation supersedes State legislation. And a lot of these bills have been handled on the Federal level. I think it's irrelevant to what we're trying to get at.

Q. Thank you for your opinion. Finally, you said none of these bills were introduced by anybody.

A. No, sir.

Q. Nobody from the Tarrant County delegation?

A. To my knowledge they were not, sir.

MR. GEORGE: That's all I have to ask.

EXAMINATION,

By Judge Wood:

Q. I believe Mr. Sifford testified that a person had a big advantage and could hardly be elected to the Senate unless in the absense of prior public identification or prior political exposure plus support from labor and/or the business community. Now, do you recall that?

A. Yes, I recall.

Q. Mrs. Betty Andujar, she is a Republican Senator?

A. Yes, sir.

Q. Did she have any prior public identification or prior political exposure?

A. To my knowledge, very little, if any.

Q. I believe you testified here that she had no support from labor in the general election, but Mrs. Fischer thought, while she didn't remember, she thought perhaps she might have.

A. She wasn't, as we have said here by the word endorsement, she wasn't endorsed by the labor leadership.

Q. Well, who was her opponent?

A. Mike Montrive.

Q. All right. And was he a Democratic candidate?

A. He was a Democratic candidate who served in the Legislature.

Q. And he was the incumbent?

A. Yes, sir.

Q. Senator?

A. A House member.

Q. And who was his opponent in the primary, his democratic opponent?

A. Walter Stiner.

Q. And whose support did those two candidates have?

A. Mr. Stiner had the labor support I think in the primary.

Q. And Mrs. Andujar won this election without the support of either the business community or the labor community and with no prior political exposure.

A. Yes, sir.

Q. One other thing. None of the Judges could remember, how big are the senatorial districts, what is the population? We have all forgotten. We know that the representatives of the single member districts are 75,000. In the case before the constitution, what is the population of the senatorial district?

MR. RICHARDS: I believe they are in excess of 300,000. 360,000, Your Honor.

CROSS EXAMINATION,

By Mr. Gladden:

Q. Mr. Lewis, you testified that Mrs. Andujar did not

have any prior exposure. Mrs. Andujar's husband is a prominent pathologist in Ft. Worth, is that not correct?

A. Yes, sir.

Q. All right. And Mrs. Andujar has been a State Committee woman for the Republican party for many years, has she not?

A. If she has--not to my knowledge.

Q. Did you read in the newspaper that she ran for State Representative on the Republican ticket two years prior to the time that she--

A. Yes, sir, I'm familiar with that.

Q. Okay. She has had some prior exposure, has she not, in seeking political office in Tarrant County?

A. To that degree, yes.

Q. To the degree that she offered herself, got the Republican nomination and ran against a Democratic opponent two years prior to the time that she was elected to the State Senate?

A. Right. You are right.

Q. Is that correct?

A. Yes. That was her only, to my knowledge, the only political exposure she had ever had.

Q. You don't recall reading anything about her activities in the Republican party?

A. No, sir. I didn't realize that she had held that

position as a matter of fact.

Q. All right. And in that connection, her opponent in the general election--she was actually elected in the general election, was she not, rather than in the primary?

A. Right. I don't recall that she had an opponent. She didn't have an opponent in the primary.

Q. And so the election--

A. The only race she ran in was the general election.

Q. Has there ever been a Republican elected, a State Representative from either District 32 or Tarrant County in the general election for the House of Representatives, Mr. Lewis?

A. To my knowledge, no.

Q. All right. And in this connection, her opponent in the general election was Mike Montrive whose family is involved in the oil business and voted a pretty conservative record down in the house of representatives, did he not?

A. Yes, sir.

Q. Now then, you told the Court that he was the incumbent. Actually he was--

JUDGE GOLDBERG: Mr. Gladden, we have had enough trouble with the Legislature, please, let's keep out of the Senate as much as possible.

MR GLADDEN: I'll do my best, Your Honor. I just want to say that he was not an incumbent Senator.

THE WITNESS: I pointed out to the Justices here that he was from the House or Representatives.

MR. GLADDEN: Thank you very much, Your Honor.

MR. YORK: We have nothing further, Your Honor.

JUDGE GOLDBERG: That's all? Now, have we finally split with Tarrant County? Have we exhausted it?

MR. YORK: As far as we are concerned, Your Honor, we can continue the tour. That's the only live witness we intend to put on from Tarrant County.

JUDGE GOLDBERG: What is the next stop on the tour? The Plaintiffs, the intervenors or somebody.

MR. RICHARDS: We are ready to go, Your Honor.

JUDGE GOLDBERG: What county do you want first?

MR. RICHARDS: I would like a chance to make a brief opening statement, get my exhibits which are all marked and then go forward.

JUDGE GOLDBERG: Go ahead. Get through with your housekeeping, but do it as expeditiously as you can.

MR. RICHARDS: I have marked and tendered copies of my exhibits both to the State and I will get them here briefly. I have tendered I think copies of my exhibit list before your Honors. And I'm not aware that the State has seen my exhibits previously. And I'm not sure if they have any objection at all. The exhibits, some of them are of statewide significance. Some relate to the evidence we

are offering with respect to various counties. I think even one of them relates to Tarrant County as a matter of fact.

JUDGE JUSTICE: I think there was one introduced previously.

MR. RICHARDS: Yes, Your Honor. That was offered to show that there was at one time in Tarrant County an identifiable Mexican-American school. I think that's the only Tarrant County exhibit.

JUDGE JUSTICE: Are you offering these 28 exhibits in evidence?

MR. RICHARDS: I am offering at this time. I move their admission. I have previously handed the court a copy of my exhibit list.

JUDGE GOLDBERG: Is there any objection?

MR. YORK: Your Honor, we would have objection somewhat along the same line that we earlier made about Exhibit 12 which is an advertisment from a Waco paper, Exhibits 13, 14, 15, 16 and 17 which are either newspaper stories or ads which appeared in the paper on the basis that they are hearsay and that they do contain in some instances conclusions of the writer which there have been no showing of his ability to give.

MR. RICHARDS: I don't think that's a fair objection. Our exhibits are ads placed by political candidates which are self-speaking or they are quotations by political

candidates who are making speeches on the issues of the day. And we don't think they fall-- They are all self-speaking events. We don't consider them as hearsay at all. They are events.

JUDGE GOLDBERG: Well, let's receive them in evidence under the general rules that we stated before and we will lubricate upon them later on.

MR. YORK: Ane then as far as exhibits--

MR. RICHARDS: Mr. York has asked me about Exhibits 19, 20, and 21. They are reports filed by the respective school districts in 1972 with HEW indicating they are black schools, white schools and mixed schools. Those are their reports and they previously tendered to your Honors without objection.

MR. YORK: We would have no objection to 19, 20 and 21.

JUDGE GOLDBERG: What's this decision in USA vs. Ron Sherman?

MR. RICHARDS: I just thought it was a simple way of putting it in. It just simply shows the pattern of segregation of local unions in the Gulf Coast area which we rely on in part in connection with our case. It may not be a proper exhibit, but I didn't feel it would be harmful for the record either.

JUDGE GOLDBERG: Go ahead.

JUDGE WOOD: Is it a reported decision?

MR. RICHARDS: It is a reported decision, yes.

JUDGE WOOD: Can't we take judicial knowledge of that?

MR. RICHARDS: I'm sure you can.

JUDGE GOLDBERG: Go ahead.

MR. YORK: Your Honor, we may have some objection in regard to some of those things, specifically about remoteness. Some of them are so far back that we say they are too remote for the Court to consider but I think we can't very well make those right now.

JUDGE GOLDBERG: You can make them later on.

MR. YORK: At some point.

MR. RICHARDS: One or two items preliminary further, Your Honor. The State has indicated that they will rejoin the same stipulation that we had last time around which I would like to confirm at this time. It is in the pretrial order in our original case and it provided that from 1900 until 1966 no black or negro citizen of the State of Texas was a nominee of the Democratic or Republican party for any elective office in the State of Texas. I would like to restate that stipulation at this time and assume that it continues as a part of the record in this case based on my discussions.

JUDGE GOLDBERG: Mr. York, you have no objection

to that, do you?

MR. YORK: I think we agree to that, Your Honor.

JUDGE GOLDBERG: The Court looked at it once, didn't it?

MR. RICHARDS: Yes. I just wanted to be sure that it was here again, Your Honor. We want to move to amend our witness list which has already been approved. We are striking our witness Maurice Olian. We are adding a witness, Representative Weddington that I previously advised the State as to that, and as I understand it they have no objection.

We would like to tender into evidence the depositions taken with respect to Jefferson County which were the depositions of William Oliver and Cleveland Nisby. In both instances, the agreement of the parties was that all objections as to form and substance as to any question would be made at the time of the taking of the deposition. And we will rely on the depositions since their objections appear. We would offer all exhibits that were attached.

Similarly, with respect to our case in McLennan County, we would offer at this time under the same statement the deposition of Robert Gilbert and former Representative Tom Moore of McLennan County. In connection with our proof with respect to these two counties, it is not contemplated, although there may be one or two exceptions, that we would call any live witnesses. At some appropriate time, I would

like the opportunity to summarize their depositions and to incorporate it in an opening statement if that would be agreeable.

JUDGE GOLDBERG: Let's get all of the depositions in first. I mean let's get everything in that you want in.

MR. RICHARDS: That concludes my tender.

JUDGE GOLDBERG: You have cleaned up everything?

MR. RICHARDS: Mr. Geroge has reminded me that our joint witness list should include Richard Alms as a witness, and the State has previously been informed of that.

JUDGE GOLDBERG: Having done that, I think it would be helpful to the Court, Mr. Richards, if you would tell us generally what your theories, thesis and evidence will be with respect to these counties.

JUDGE JUSTICE: I don't believe there was any formal ruling on the exhibits.

JUDGE GOLDBERG: They will be received. Keep this down to about 10 minutes.

MR. RICHARDS: I will, Your Honor. Let me start with Jefferson County. With respect to Jefferson County, the record as we understand it, undisputed at this stage, is that the County is composed of some 25 percent of it's citizens black, four-and-a-half percent Mexican-Americans. No black has ever been a nominee of the Democratic party for any office in that county. The evidence shows that there

has emerged in recent years, notably in the '60s with the adoption of the civil rights act, substantial tension between the white working class and the black working class in that county. Jefferson County is a heavy refining county. Much of the employment is in those refineries. And historically, both the local unions there and the line up of employment in seniority were segregated. The second factor which we think is significant in this mosaic is that traditionally this has been a county in which organized labor has played a very significant political role and that the endorsement by COPE, an arm of organized labor has been very instrumental.

Our evidence is one, that no black has ever been endorsed by COPE. Two, that tensions have now reached the stage following the merger of the segregated locals, following the opening up of the lines of seniority, the tensions that emerged from that, that if anything, the situation in fact has gotten worse today than it was in 1964.

There is testimony in the record that the AFL-CIO leadership that was in fact itself perhaps sympathetic to the notion of blacks running for office has advised those candidates that they felt they could not in fact endorse a black candidate for public office in that county for fear of the hostility within their own membership, that they would be defeated for re-election if the undertook to do so.

We have one person, a man named Al Price who has

run twice as a black man for the legislature. Once in '64 and again in '72. He was the first black man ever to be employed as a pilot by American Airlines. He is a long time citizen. In fact, his father was the principal of an all black school in Jefferson County. He is a man of some 12 years in the military and retired as a Captain. When he ran the last time for office in 1972, he ran a well financed, extremely credible campaign which addressed itself to the issues throughout the community and got essentially no votes outside of the black community. He went down to defeat. In fact, one of the persons who nosed him out in the run-off has subsequently been indicted for conspiring to murder one of the other legislators down there.

That in 1964, a candidate, a long time lawyer by the name of Elmo Willard, a black man in the county, ran for County Commissioner. Forced a runoff against an incumbent white office holder. That during the course of the runoff, in the black precincts there were armed white deputy Sheriffs stationed at black poling places which resulted in--

JUDGE GOLDBERG: Is this all in the deposition?

MR. RICHARDS: Yes, it is. That during the course of that campaign for office, that appeals were made in the white precincts that do not--"You'd better watch out, blacks are taking over the Courthouse, get out and vote." That's the pattern in Jefferson County that emerges as we see

it from the depositions. I suppose there is more detail to it, but that's essentially the argument we make.

Segregated schools systems continue. In fact, there is testimony today they are still busing black students from one end of Beaumont to the other past two high schools to put them all together into a black high school.

So, our evidence is we feel substantially isolated black communities in Jefferson County, one that's victimized by historical hostility.

In McLennan County, our evidence--

JUDGE GOLDBERG: Jefferson is all documentary or deposition?

MR. RICHARDS: Yes, it is, Your Honor. I have indicated we might call Bill Oliver very briefly.

McLennan County is all deposition at this stage. There we are dealing with much more of a historical agrarian community which is 16 percent black and a population of 7 percent Mexican-Americans and virtually the total--they all used to live east of the Brazos River, but they are coming across the river a little ways now. But there is still substantial segregation within the community. And there is a fact in McLennan County, and I want to revert to the same in Jefferson, and the same will appear in Travis County, that each time it appears that blacks might be successful in the political process, first in Jefferson County, the first

time that it began to appear that blacks might be successful in the County Commissioners race, they simply altered the district to reduce the black component.

In McLennan County, the first time a black ran for City Council in the city in 1950, our evidence is it became apparent there was some threat that a black be elected on the City Council, they immediately changed the election laws in Waco to alter the system so that he must be elected city wide.

Our pattern in Waco is essentially one of neglect and not participation. Total non-participation in virtually all political affairs in the community.

This brings me to our Galveston County proof in which we are taking entirely different wrinkle, and this will be my first witness, so I had better make that one quite clear. Galveston County, the county which has been divided as a consequence of the recent legislative redistricting bill, a substantial portion of the County has been removed and tied in through Chambers County all the way into the present Harris County.

Our argument in Galveston County will be that the nature of the Plaintiff was to fragment and dilute the black vote because it arbitrarily came into the County, removed an area of West Texas City that's heavily black, some 7,000 residents. That's our argument there.

And our argument will be in that county, our

evidence will be that we will say that the Court should probably restore that black area to the basic district under Johnson vs Conner inasmuch as single member districts are preferred, just construct single member districts for the two member district that remains in Galveston.

JUDGE GOLDBERG: Do you have a live witness?

MR. RICHARDS: I have Representative Ed Harrison who I'm going to put on on that point.

Our Travis County proof which is being divided between us and MALDEP will parallel I think that of the other counties. But it will all be live and I suppose it will be self--I think it will be clear.

JUDGE GOLDBERG: What else have you got?

MR. RICHARDS: Mr. Korbel is responsible for the counties, for developing evidence with respect to El Paso, Nueces and Lubbock.

JUDGE GOLDBERG: And Hidalgo?

MR. KORBEL: And Hidalgo.

JUDGE WOOD: And as I understand it, gentlemen, there are nine multi-member districts challenged by this case, is that right?

MR. RICHARDS: Yes, sir.

JUDGE WOOD: By the Plaintiffs? Are these all of the multi-member districts in Texas?

MR. RICHARDS: That's all there is.

JUDGE WOOD: There are no others. All nine are challenged? All right.

JUDGE GOLDBERG: I think Mr. York should now tell us what he is generally going to show. I think this is an advantage to the Court. We can know what to look for or what not to look for. Let's hear from you, Mr. Korbel.

MR. KORBEL: I'm George Korbel representing the Plaintiff-intervenors Moreno et al. My counties, Your Honor, the counties that I am responsible for are Lubbock, El Paso, Nueces and to a lesser extent to Travis and Hidalgo. Lubbock County has a typical situation like McLennan County. You have almost no participation of the Mexican-American which accounts for approximately 17 percent of the population and blacks another 10 percent or so. We have never ever had a Mexican-American run for the State House of Representatives. You have only had one Mexican-American elected to one post and that was a Constables post. There is testimony from the immediate past Democratic Chairman that at least 25 percent of the Anglos would vote against the Mexican-American simply because he is a Mexican-American.

THE COURT: Do you have any deposition testimony?

MR. KORBEL: Yes, Your Honor. There are four depositions in Lubbock County and I was going to summarize those. The first deposition is a deposition of Madison

Bowder, the immediate past Democratic Chairman. He testifies that at least 25 percent of the Anglos would vote against a Mexican-American because, simply because he's a Mexican-American. He testified that he was himself in favor of single member districts for school boards and city councils and his reason is obvious.

And then there was the deposition of Froy Salinas and Jessie Rangel and a Rev. Howell who is a Catholic Priest there. And they generally testified about instances of discrimination to the Mexican-Americans in Lubbock County. Those would include at least one swimming pool in the county which was integrated only last year. There are instances of discrimination in public facilities very recently. And instances of discrimination in restaurants and theaters in the middle and late '60s.

And also we will offer into evidence by deposition two Masters Thesis from Texas Tech, one Masters Thesis dealing with the history of dscrimination against Mexican-Americans in Lubbock County and one dealing with the history of the Lubbock Independent School District.

JUDGE GOLDBERG: No live testimony?

MR. KORBEL: There will be no live testimony from Lubbock County. No, Your Honor.

The next county we are dealing with is Nueces County. Nueces County, the Mexican-Americans represent upwards

of 45 percent of the population. Yet, since reconstruction only two Mexican-Americans have ever been elected to the House of Representatives and then not at the same time.

We have testimony in the record by deposition from Hector Garcia, Dr. Hector Garcia about instances of discrimination against Mexican-Americans, some old and some new.

Do you want me to summarize those instances?

JUDGE GOLDBERG: We will read the deposition.

MR. KORBEL: We have the deposition of Paul Montemayor dealing with the situation in the schools, dealing with the polarization of the community. We find the same thing in Nueces County that Mr. Richards finds in Jefferson County. There was a time in the middle '60s when things were going along pretty well over there. But in Nueces County since the school case since the Corpus Christi school case, the community has become increasingly polarized. And we find a reference to racial overtones in campaigns and that type of thing. That's in the deposition, Your Honor.

Judge GOLDBERG: No Live witnesses on Nueces County?

MR. KORBEL: We have listed one live

witness and we may offer him, Your Honor. It would just depend. That would be State Representative Carlos Truan. I understand the State is going to put on a witness and it depends upon what he says.

Then there is El Paso County. In El Paso County, which is upwards of 55 percent Mexican-Americans elected to the State House of Representatives since reconstruction. Of those four, they have all been since 1958. While Mexican-Americans account for 55 percent of the population, they are only 38 percent of the registered voters over there.

We have the deposition of George McAlmon which was not filed yet this morning. The reporter hadn't filed it. I understand it's here now though. In that deposition, Mr. McAlmon who is the immediate past Democratic Chairman testified that he feels there is a very strong current of racism running throughout El Paso County. And he attributes the low registration of voters, that is to say, 38 percent of the Mexican-Americans, to the past instances of discrimination against Mexican-Americans. In the deposition, he says that the turnouts are also much lower for Mexican-Americans than they are for Anglos. And he attributes that to the same factor.

I think that concludes the depositions.

JUDGE GOLDBERG: No live witnesses from El Paso?

MR. KORBEL: We may put on one live witness

from El Paso and that would be Representative Paul Moreno. But we don't know yet, Your Honor. I understand the Republicans may offer one witness.

JUDGE GOLDBERG: Yes, we will get to Mr. George.

MR. KORBEL: Yes, sir. I think basically our cases, we see two current running --

JUDGE GOLDBERG: What about Hidalgo County? What are you going to do with it?

MR. KORBEL: We are going to put our expert witness on, Dr. Charles Cotrell. He is very familiar with Hidalgo County.

JUDGE GOLDBERG: One live witness on Hidalgo? There are no depositions on Hidalgo?

MR. KORBEL: No depositions. I understand the State is going to introduce a deposition.

JUDGE GOLDBERG: I'm talking about you now. We will get to the State in due time.

MR. KORBEL: That exhausts my comments, Your Honor.

JUDGE GOLDBERG: Thank you very much. Now Mr. George, tell us what you are going to do.

MR. KORBEL: As a matter of record I suppose for housekeeping, I'm going to offer all of the depositions and the exhibits attached thereto. Also I have a box of exhibits over here. I have a box of exhibits over there.

JUDGE GOLDBERG: Have they been shown?

MR. KORBEL: They've been shown to the other side. Unfortunately, my secretary is in San Antonio and so I've got a list written out but it's not typed up. As soon as I get it

typed up. I'll tender that to the Court, and I would like to tender all of the exhibits into evidence.

JUDGE JUSTICE: Have they all ben marked?

MR. KORBEL: Yes, Your Honor.

JUDGE GOLDBERG: Has the State looked at them?

MR. KORBEL: Yes, Your Honor.

MR. YORK. We have a problem with a few of them. We have one or two objections to them, Your Honor.

JUDGE GOLDBERG: Well, before we finish all of the proceedings, we will spend some time regarding the making of objections to some of these things. In the meantime, look at the list and so forth. We are going to give you the night off so that you can work on this thing. I'm warning everybody, we might have a night session tomorrow night.

MR. KORBEL: I might say, Your Honor, that most of the exhibits are self explanatory and they will be used for the purpose of the post-trial briefs.

JUDGE WOOD: Can you get a list of those exhibits to Counsel by tomorrow?

MR. KORBEL: Yes, sir. I can give them a copy of the hand written statement right now, Your Honor.

JUDGE GOLDBERG: Mr. George, what are you going to do?

MR. GEORGE: Your Honor, quite briefly we will have one witness. We will have one live witness from El Paso County and one witness, we are planning one live witness for Jefferson County, each of which will take a very short amount of time.

JUDGE GOLDBERG: That's all? We are very grateful to you for your promised brevity. Now, Mr. York, tell me what you are going to do.

MR. RICHARDS: Your Honor, Mr. Crawford will present our position on the Travis County case.

MR. CRAWFORD: Your Honor, if it pleases the Court, we will be very, very brief. We will probably call some four witnesses in the event we need them primarily for rebuttal purposes. They are all on our list. It is in conjunction with the Plaintiff's case, Your Honor, and I believe that's all I have.

JUDGE GOLDBERG: All right Mr. York, tell me what you are going to do.

MR. YORK: Your Honor, we would like, if we may, to reserve an opportunity to make a little fuller opening statement at the time we begin to put our witnesses on. However, to give the Court some roadmap, at least timewise in part as to what we are going to do, we do of course want to urge the Court to consider these counties, county by county, and not brush them with a broad brush. But we intend to have deposition testimony from Lubbock County with no live witnesses. Deposition testimony from El Paso County and probably

with two live witnesses. Deposition testimony from Nueces County with one live witness. One deposition from Hidalgo County with no live witnesses. As other Counsel have indicated the entire Travis County presentation from all sides will be live. I expect ours will not, depending upon what they do, may not extend more than one or two witnesses.

Tarrant County we've been through, Galveston County, probably will not require a witness.

JUDGE GOLDBERG: Which County?

MR. YORK: Galveston. McLennan County we intend to offer deposition which we took of Former State Representative Tom Moore, without any live testimony from there. And we would not anticipate any live testimony from Jefferson County. I believe that completes the list. It would indicate for us about four or five, perhaps live witnesses with a variety of deposition testimony.

JUDGE JUSTICE: Let me ask you this, why don't we have any depositions from Travis County? Why is it all going to be live as distinguished from the rest of these counties?

MR. YORK: Well, I would have to speculate in part as to why the Plaintiffs did not take any depositions. We did not take any in part because they didn't.

JUDGE JUSTICE: That's a good answer.

MR. YORK: And Your Honors were kind enough to

come down here to try the case.

JUDGE GOLDBERG: Thank you very much. We will take a 10 minute recess and then go on with our evidence.

(The Court recessed at 3:50 and resumed at 4:05 PM.)

MR. RICHARDS: We have one further stipulation that the parties agreed to that I neglected to read. If I may read it into the record. This is to save us from the necessity of calling each individual party plaintiff. The stipulation is that, it's the same stipulation we had before, that each individual party plaintiff if called to testify and placed under oath would testify that he or she is a resident citizen and registered voter of the County as alleged in the pleadings and that he or she is of the race, color, economic level and political preference alleged in the complaint or plea of intervention and that each contends that he or she is denied constitutional rights by the reapportionment scheme hereunder attacked.

JUDGE JUSTICE: So stipulated.

MR. YORK: Yes, sir.

MR. RICHARDS: Representative Harris, please. If it please the Court, I think as I indicated, it is not our contention that the existing multi-member district in Galveston County as it is presently constructed and functioning operates to the disadvantage of the minority within the

county, but rather we are contending something else with reference to Galveston County which is a fragmentation.

ED HARRIS,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Richards:

Q Would you give us your full name, please sir.

A Ed J. Harris.

Q And where do you live, Mr. Harris?

A I live in Galveston, Texas.

Q Are you a practicing attorney there?

A Yes, sir.

Q And a member of the Legislature?

A Yes, sir.

Q For what period of time have you served in the Legislature?

A I'm in my sixth term.

Q That would be beginning when? '62, would that be correct?

A I was sworn in in '62. I was in the 58th session. 1963 was my first session.

Q And you have served continuously since that time for Galveston County?

A Yes, I have.

Q Mr. Harris, we have talked a bit about the current Legislative District in Galveston County with respect to the removal of a portion of Galveston County into another legislative district. Is this the first time that Galveston County to your knowledge has been less than county wide, I mean less than a county wide district?

A In 1970 it was determined that Galveston County had an excess of about 20,000 people for two districts. We had the problem of taking care of the excess which would be put into a partial district and shared with other counties,

Q But up to that time, Galveston County had a county wide legislative district, is that right?

A A two member multi-member district.

Q And in the legislative redistricting bill board plan, a portion of Galveston County was removed, is that right?

A Well, the bill we passed in 1971 took care of the surplus and put it in the -- put 19,000 Galveston Countians into a district with Chambers and part of Jefferson and Liberty County.

Q Then the legislative redistricting board bill altered that, is that correct?

A Suddenly, unexpectedly the Constitutional Redistricting Board complete absolished or did away, discarded the plan

that we had adopted in the 1971 session. I believe it was the 62 session. And just arbitrarily imposed a plan which divided the County into two land -- took two masses of land in which our surplus was included and put it in with Chambers County and part of Harris County.

Q You have before you Plaintiff's Exhibit 1 which I previously showed to you. That's Wright Intervenor's Exhibit 1 which sets forth the racial composition of the census tracks in that district which is District 17, is it not?

A Yes, sir.

Q District 17 being that district which takes a portion of Galveston, Chambers County and portions of Harris County, is that correct?

A Yes.

Q Could you comment on that district, District 17 in terms of how it affects the interest of the black minority of Galveston County?

A District 17 includes a corridor that comes from out of Galveston Bay. And it's about four or five miles wide and runs straight to the heart of the County to take out a census track with about 5,500 black people in it. It is an appendix that stretches to the heart of the county and takes out this census track 1219 which contains 5,500 blacks.

Q Our exhibit will demonstrate it. It ties in to virtually an all white-- All of the other census tracks in

Galveston County are all white, is that not true?

A It ties in with Boliver which is across the bay and the opposite end of the county. No blacks on Boliver County which is in Galveston County. And Chambers County across the bay with white rice farmers and fishermen. And Deer Park, La Porte and Seabrook in Harris County with less than 1,000 blacks in which live principally industrial refinery workers.

Q In Exhibit 1 it reflects this composition. How has the removal of these blacks, this black census track from the legislative district in your view affected the interests of the black minorities in Galveston County as far as the legislature is concerned?

A It accomplished exactly what it was intended. The purpose of this plan was to dilute and wash down or neutralize the effect of these black voters in order to influence the results of the legislative race in Galveston County.

Q This particular census track 1219, would you comment on it in terms of the nature of the blacks who live in that track.

A The 5,500 blacks who live in census track 1219 are probably of an average intelligence on the level with the whites in the district. Most of them are refinery workers. They work at the Texas City Refineries. They have an average

income I would say of about $8,000. The black leaders of Galveston County live in West Texas City which is census track 1219. They and the contributions which they make to the political races of the county were removed and their influence was diminished.

Q This particular census track 1219 as you have characterized it is one in which a large number of black leadership of the county live, is that correct?

A Yes, sir.

Q Can you name just a couple of them for us?

A Johnny Henderson.

Q He is one of our Plaintiffs here, is that correct?

A Yes, sir, he is a statewide official of the AFL-CIO. Roosevelt Henderson, Johnny Henderson's brother, is a business man in Texas City and was a candidate for the City Council of Texas City. And I can name --

Q That kind of leadership exists in 1219, is that correct?

A Yes, sir.

Q All right, sir. In Galveston County legislative politics, has the black community in the past participated as an active member of the functioning political coalition in that county?

A They have. Each time I have run for election I have gone over and talked to those people, worked with them.

And that's the reason I am here today. I believe in the purpose of this suit. I think that they are being discriminated against.

Q All right, sir. What would you as a legislator from Galveston County like to see this Court do with respect to the legislative district in that County?

A I'd like to see the census track 1219 restored to the multi-member district which Galveston County now is. And I would ask the Court to divide the county into two single member district because I think that the rights and the welfare of these blacks and the other blacks in the county would be served by the institution of single member districts in Galveston County.

Q Is that the point of view by the way of the other legislators from the County?

A The plan which we offered was a plan which was devised last spring during the regular session of the legislature. It came out of the Courthouse in Galveston. It was the product of efforts on the part of the County Judge and approved by the Commissioner's Court. And it resulted from the cooperation of Representative Baker who is the other Representative from Galveston County, District 19B and Representative Ed Watson who is the incumbent in District 17.

Q Why was it, as you say it, that the last legislature didn't come up and approve the single member district

plan for Galveston County?

A We were told and we fully expected that Galveston County would be divided into single member districts and that our plan would be adopted as a part of the omnibus redistricting house bill. Well, along about the first of May we realized that the membership from Tarrant County apparently was opposed to single member districts. And I think the senior member from Tarrant County, Mr. Finney, was a member of the redistricting committee.

And we suddenly realized within about three weeks of the end of the session that there would be no redistricting bill coming out of the redistricting committee. And without a committee approved and recommended by the committee there was no chance, we were unable to divide our county, Galveston County into single member districts.

Q In your opinion as a legislator from Galveston County, is it your view that the interests of the racial minorities, both black and Mexican-American would be better served by single member districts in that county?

A I certainly do. I think most of these groups are people of limited average means. The average black in Galveston County would have a very difficult time running county wide. The multi-member district contains 150,000 people. And I have run six times and I know the cost of

running. When I was elected back in 1962 I spent $5,000. The costs are greater now. I think it's obvious that if we would divide the county into two single member districts with 75,000 population in each district, the cost of running would be much less and the cost of serving these people to the members of the legislature in serving these people would be reduced accordingly.

Q And I suppose better communication could be created within the district?

A Yes, sir.

Q Now, in terms of just your comment and the map will be before the Court, is there any geographic logic to the existing district, that is, the way that they have gone into Galveston County and taken 1219 out of it?

A None whatever. District 17 is a monstrosity. You wouldn't believe it until you see in on the map. It goes all the way around Galveston Bay. It is composed of three separate land masses. You've got to see it to believe it.

Q Without putting you in a position of overstating anything to the Court, but assuming that the Court should conclude that single member districts were desired or should be implemented in Galveston County, do you see any reason why the implementation of such a plan should be delayed beyond, or should be delayed at all?

A No, sir. I know of no one opposing it, not even

the Republicans. In fact, Mr. Richards, the Republicans tell me they are very much for it.

MR. RICHARDS: That's all I have.

JUDGE GOLDBERG: Anyone else?

CROSS EXAMINATION

By Mr. Gladden:

Q Mr. Harris, you mentioned Tarrant County representatives in your opinion were opposed to single member districts. And it is the largest single multi-member district at the present time, is that correct?

A Yes, sir.

Q All right. In that connection, you mentioned Representative David Finney who was on the redistricting committee. In addition to that, was he not Chairman of the State Affairs Committee of the House of Representatives?

A Yes, he was.

Q Had he been in favor of single member districts, do you feel like Mr. Finney would have been able to get a bill out of the Legislative Redistricting Committee?

A Yes, Mr. Gladden. If Mr. Finney and the others eight members from Tarrant County, if they had been in favor of single member districts we would have had them. We thought we had them until about the last week of April when all of the sudden we realized that Tarrant County didn't want single

member districts. And they told us that since they didn't want them and Nueces didn't want them and one other, Jefferson didn't want them, that none of the lesser counties could have them. Arbitrarily they told us that you aren't about to get them.

MR. GLADDEN: I believe that's all, Mr. Harris. Thank you very much, Your Honor.

JUDGE GOLDBERG: Any further questions?

CROSS EXAMINATION,

By Mrs. Levatino:

Q My name is Liz Levatino. Mr. Harris, what percentage of District 19 is black?

A Well, Galveston County has 33,000 blacks. District 1219 contains about 5,500 blacks.

Q No. District 19, the legislative --

A Census track 1219 contains about 5,500. So, you take 5,500 from 33,000 and you wind up with about 28,000 blacks, 27,500 blacks in District 19.

Q Which would be about 20 percent?

A Well, I think 33,000 is 18 percent of 170,000. So, 26,000 would be about 19 or 20 percent of 150,000.

Q Okay, about 20 percent?

A Yes, ma'am.

Q Okay. You were talking about the taking out of

census track 1219 from Galveston County. And that this was done arbitrarily by the Legislative Redistricting Board, is that correct?

A Yes, ma'am.

Q The reason, is it not true that the reason the Legislative Redistricting Board had to readjust the house legislative district line was because the present plan was declared unconstitutional in the Supreme Court case, isn't that right. Mr. Harris?

A Well, the present plan was not declared unconstitutional because of the plan we adopted in Galveston County during regular session.

Q But the entire plan was declared unconstitutional?

A I suppose it was.

Q So, was it true that one of the reasons that it was declared unconstitutional was the percentage deviation and also the cutting of county lines? Do you recall?

MR. RICHARDS: I think the record will speak for itself that it was not a percentage deviation. I think the Court opinion will speak for itself.

Q (By Mr. Levatino:) Okay. So in redrawing the plan, they were going to have to change some line, is that correct?

A They could have very well left us as we are.

Q Okay. So it was your opinion that they wouldn't

have had to change anything in Galveston County?

A Yes, thats right.

Q You spoke about the fact that the blacks are very active in Galveston County with regard to the political scene, is that correct?

A Yes.

Q And have they been very active in city politics and county politics?

A Yes, ma'am. In the city of Galveston we have a black councilman. I think the city of Galveston first elected a black councilman in 1962.

Q And is it a fact that at the last election, a black councilman was elected and poled the most votes of anyone?

A In Galveston?

Q In Galveston, of anyone that won? He led the ticket?

A I was up here. I don't remember which one got the most votes. He might have. He is a very popular man in the city.

Q So, in your opinion have the blacks and the Mexican-Americans in Galveston County been active in all levels of the political process either as candidates working in the elections and voting in the elections?

A Yes, they have.

MR. RICHARDS: That's our position too, Your Honor. Maybe I didn't make myself clear.

JUDGE GOLDBERG: Mr. Richards, I think what you are getting ready to say can very well wait for the argument. I understand your position.

Q (By Mrs. Levatino:) Is it true that your major concern here is the fact that approximately 5500 blacks were removed from District 19?

A That's correct.

Q And the fact that a multi-member district does exist in Galveston County has not necessarily affected the general level of activity that the blacks either in Galveston County or in census track 1219 may have in their respective districts?

A It has diluted their effect in the multi-member district of Galveston County. It has also diluted their effect in the district into which they were put. They were put in with a district with about 60,000 whites for 65,000 whites.

Q Okay. In the bill which passed the 62 legislature that contained census track 1219 in Galveston, the Galveston County district, was that a single member plan or a multi-member plan?

A No, we were left -- we were not permitted to divide our county into single member districts.

Q It was a multi-member district plan.

A Yes. It was the same plan that had been adopted by the Constitutional Redistricting Board. We were not changed this year by the bill.

Q I'm talking about the bill that passed the 62nd Legislature.

A In 1971?

Q Yes.

A No. We devised a plan in 1971 and it passed. But it was not a single member district. There was a problem there too. The speaker, you remember -- you don't want to go into that I'm sure. We wanted single member districts then, but we were not permitted to have them because of the big boys in Houston and Dallas and Bexar and Tarrant weren't going to get them. Now they have them and we want them.

Q Okay. You made the statement that in the last legislature, the 63rd Legislature, you understood that Galveston County would receive single member districts as a result of part of the omnibus redistricting bill, is that correct?

A It was our impression that the Federal Court ordered the Legislature to redistrict this state into single member districts. And we wanted to comply with what we considered to be the mandate of the Court.

Q Were you aware that that opinion, that the opinion

of this Court was on appeal at that time?

A Well, yes.

Q And were you aware --

A This is strictly an opinion that ordered single member districts.

Q Were you aware of the fact that the case had already been argued before the Supreme Court? In other words, they were waiting for the opinion to come down?

A I know they were waiting for a lot of cases. Yes, they were waiting for it but we wanted it anyway.

Q I know that. Would it be reasonable to say that in light of the fact that the Supreme Court would be handing down an opinion on this case that may or may not force complete redistricting of the State's complete House Legislative Plan that there was some hesitancy on the part of the Legislature to go ahead and completely reapportion the --

A The only hesitancy I noted was on the part of the members from Tarrant, Jefferson and Nueces Counties who didn't want their counties divided into single member districts. I could explain the reason for that too, if you would like. But that's the only reason against it. And they arbitrarily wouldn't let us divide our county.

Q Were you here for the testimony earlier today that spoke of the attempts of the Tarrant County delegation to get a single member district bill before the floor of the

House, the Texas House of Representatives during the last Legislature?

A I heard part of that testimony and I think I observed all of their sufferings. I was a direct witness to their blood letting.

Q Do you or --

JUDGE GOLDBERG: Let him answer the question, Mrs. Levatino. It is extremely interesting. Even with the shortage of time, go ahead.

A I was a witness to all of the blood letting that was going on. I was doing all I could to encourage those who wanted to divide Tarrant County into single member districts. Of course I couldn't understand all of the reasons for the foot dragging and the delay and the lethargy, but we suddenly realized by the last of April that there wasn't going to be any single membered districts bill. There was one little bill which permitted a member of the Redistricting Committee in San Antonio to make a trade out with another House member. And they very obligingly put this little local bill that corrected and cleaned up two legislative districts in Bexar County on the uncontested consent calandar. And they took care of their problem. But they had a man on their redistricting committee. The rest of us that wanted in good faith to divide ou counties into single member districts, we wern't permitted to.

Q But you were aware of the Tarrant County delegation attempt to bring a single member district bill up on the floor of the house?

A Yes, and I voted for it each time.

Q Was there any such attempt made by either you or Mr. Baker or anyone else, any other member of the Legislature to do the same for Galveston County?

A. Well, the last few days of the session we had a lot of other problems. And redistricting was one of our problems, but it didn't have quite the priority to cause us to try to bring it up. You've seen the Legislature in session during it's dying days and it's pretty hard to get the Speaker's attention. But we were ready. We had a bill ready.

Q But you did not introduce that?

A No.

Q I mean you didn't try to bring it ip on the floor?

A No, I was the chairman of the Elections Committee and had other problems on the appropriations Committee.

Q In your opinion, do you feel that as a representative from District 19, a multi-member district, you have adequately responded to the needs of the minorities that you represent?

A I have done the best I could. I could do much better if we could divide Galveston County into single member districts.

Q Do you think you could respond to minorities because it would be a smaller district?

A I could respond to the minorities in my single member district composed of 74,868 constituents. And I think one of them who would like to run against me would have a better chance of making a fair showing in competing against me for the position. And I think they are entitled to that right. It is their right.

Q Do you think they could beat you?

A I'd like to see one try. They can't do it now in census track 1219.

MRS. LEVATINO: I have no further questions.

JUDGE GOLDBERG: Does anybody else have any questions? Thank you.

MR. RICHARDS: I have nothing further and may this witness be excused?

JUDGE GOLDBERG: Yes.

MR. RICHARDS: Larry Bales from Travis County, Your Honor.

JUDGE GOLDBERG: Let me ask you this, Mr. Richards, do you have anymore live witnesses from Galveston?

MR. RICHARDS: That concludes our live testimony from Galveston County. We will put on Dr. Cotrell as a State wide expert who will I assume incorporate within his testimony some of the findings he made there.

JUDGE GOLDBERG: That's fine. Go ahead.

LARRY BALES,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Richards:

Q Would you give us your full name, please sir.

A Larry Bales.

Q Mr. Bales, you are a State Legislator from Travis County, is that correct?

A Yes, sir.

Q Elected for the first time --

A The last time in 1972.

Q You are a practicing attorney in Travis County, is that correct, Mr. Bales?

A I was until just after the section. I'm now in the resturant business.

Q Were you engaged in law practice at the time you ran for office?

A I was.

Q Had you been appointed by one of the District Judges -- oh by the way, whom did you run against?

A An incumbent, Harold Davis.

Q Do you know how many terms Mr. Davis had served in

the legislature?

A He had served two terms.

Q Sometime during the year before you ran for office, had you been appointed by the State District Judge from Travis County to defend a person by the name of Eddie James Ward?

A Yes, I had.

Q As an appointment by the Court, is that correct?

A That's true.

Q During the course of your campaign against Mr. Davis, did he attempt to link you with the Black Panthers because you had been appointed to represent Mr. Ward?

A Yes, he did.

Q And the exhibit before you which is exhibit --

A Number 17.

Q And is that an ad run by Harold Davis in the office of the American during the course of your campaign against him?

A This was just a front group, the alarmed citizens committee.

Q A front group for Mr. Davis' campaign?

A Yes.

Q How much did you spend to run for the legislature county wide here?

A I think approximately $27,500 or $28,000.

Q Was there in addition to that other monies spent on your behalf by other persons, by other groups would you say?

A I'm sure there was.

Q All right. How many votes roughly were cast, if you recall, in the Democratic Primary in Travis County?

A I got the first time 43,000 votes and that was about 48.9 percent of the vote. So I guess approximately 90,000.

Q All right. And a similar turnout in the run-off, is that correct? You were in the run-off against Mr. Davis, were you not?

A Yes, sir.

Q And you defeated him in the run-off?

A Yes.

Q What would you say as to the cost of running for election in this multi-member district in Travis County as it is presently constituted as to the future?

A Well, the cost is always greater for a non-incumbent. If I had it to do over again and wasn't the incumbent, there is no way I would spend that kind of money or would be able to raise that kind of money to run in Travis County.

Q Are you saying to us then or to the Court rather that as you view it, the cost would become prohibitive in this County for a person to try to run for office on his own means?

A Yes.

MR. RICHARDS: That's all the questions we have.

CROSS EXAMINATION,

By Mr. Black:

Q Tom Black from the Attorney'General's Office. Mr. Bales, with reference to the cost, now much again did you say you spent approximately?

A Approximately $27,500. I haven't seen the statement that I filed.

Q You have seen it, but you just haven't seen it recently?

A I haven't see it since it was filed.

Q I believe you reported $26,383.99.

A Then that's the correct figure.

Q And would it be a fair statement to say that that is a far greater amount that was spent by any of the other candidates in the race?

A In my race?

Q No, in the whole district I mean.

A No. I think Hugh Hornsby spent more money than I did.

Q What race was Hugh Hornsby in?

A In Place 2. He was in the run-off with Sarah

Weddington.

Q Now, you were in a race against Harold Davis and who else?

A And Buddy Ruiz.

Q And Buddy Ruiz was eliminated by the run-off?

A That's correct.

Q Do you have any idea how much he spent in the race?

A If I recall correctly, I thank he spent about $6,000 or $7,000.

Q Now Mr. Bales, you were not only not an incumbent, but this was actually your first entry into Travis County politics, wasn't it?

A No. I had run in 1963.

Q What for?

A State Representative.

Q And then this was in 72 that you were running again?

A Yes.

Q It was almost nine years later?

A That's right.

Q You were not known as a political personage in this county, would you think?

A No, I don't think that I was widely known at all. That's why I had to spend so much money.

Q Okay. Of course Mr. Davis, your opponent, was

very well known. He had been in the legislature for quite some time, had he not?

A Yes, sir, two terms

Q And he had had maybe two hard races before that, had he not?

A No. He had an extremely difficult race the first time he was elected, but I don't remember any significant opposition for his second term.

Q All right. And when was it that he attempted to link you with the Black Panthers? Was it during the first primary or the run-off?

A It was during the run-off.

Q And that of course was not successful?

A Well, no. I don't think that would be a fair assessment of it. During the first primary I carried 89 of 101 voting precincts in Travis County. And after these type of scurrilous ads were run, I carried 55 of the voting precincts. And the precincts that changed were in the predominantly white areas. For example, in the first election I carried the majority of my home precinct, 133. It is a middle income white precinct. I was defeated there by 13 votes in the run-off and I attribute that to this type of campaign.

Q County wide as a whole, perhaps in a single member type district it was successful. But county wide, it was not. You won the race, didn't you. Mr. Davis wasn't successful.

A Oh, certainly I won the race, but it certainly had an effect. I dropped from 89 voting precincts to 55 voting precincts.

Q Do you have any idea how much he spent in the race?

A Oh, I think he reported $8,000 or $9,000. I didn't believe it when he filed it.

Q But that's what he reported which was about a third of what you reported, is that correct?

A That's correct.

Q Now Mr. Bales, what was the bulk of your cost?

A Television.

Q And of course even in a single member district you will have that.

A I would anticipate if we had single member districts in Travis County that it would really be senseless to spend all of that money on television time.

Q You don't think television would be of any use in a campaign?

A Well, I think you could campaign more effectively by a door to door campaign or direct mailing. I wouldn't for myself, I wouldn't spend any money on television.

Q Do you know what the experience has been in counties like Dallas and Bexar where they have changed to single member districts? Have they used television in their races or do you know?

A No. I couldn't make a blanket statement. I have had conversations with fellow legislators who were elected for the first time. For example, Jim Maddox from Dallas I think spent only about $7,000 in his campaign. I don't think he used any television. I don't know whether they did or not.

Q You don't know what the general trend has been on that?

A No, sir.

MR. BLACK: That's all the questions I have. Ihank you.

MR. RICHARDS: We have nothing further. May this witness be excused?

JUDGE GOLDBERG: Yes. Do you have one more?

MR. RICHARDS: Well, I promised Stuart Long that I would put him on this afternoon and let him go on.

STUART LONG,

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION,

By Mr. Richards:

Q Would you give us your full name, please sir.

A Stuart Long.

Q How long have you lived in Travis County, Mr. Long.

A Nearly all of the time, since 1933.

Q Will you summarize for the Court your work career in the newspaper industry first and then we will come back to politics.

A I've been a journalist since 1935. I have been a news editor of the Austin Statesman, a political and Governmental writer. I have been a news editor of radio station KRET a publisher of the Austin Report, a statewide Governmental newsletter.

Q You have founded and been active in the Long News service since 1945, is that correct?

A Yes, sir.

Q What specifically is the Long News Service engaged in to do?

A We are correspondents for 26 daily newspapers in Texas abd for the Texas State Network, 130 radio stations.

Q Covering the Legislature in political matters in Austin, is that correct?

A Yes.

Q In terms of Democratic party politics in Travis County, let's see, I believe you told me you've been a democratic precinct Chariman since approximately 1946, is that correct?

A Yes, sir, except for two terms off when I moved. My avocation has also included campaign manager for my wife's 13 races for public office in Austin, 10 of which she won and

three of which she lost.

Q All right. Your wife, Emma Long, was on the Austin City Council from 1948 to 1961, is that correct? And then again from 1965 to 1969, is that correct?

A Yes, sir.

Q I would like to turn your attention first to the efforts of black citizens in Austin to try to gain public office. Can you remember the first black candidate for public office in this county or city?

A Yes, sir. I believe the first one was Arthur Dewitty who ran for City Council in 1951.

Q And that's D-e-w-i-t-t-y, is that correct?

A Yes.

Q How were the Austin city council elections conducted at that time?

A Well, everybody ran and the five high took the five seats on the Council.

Q It was not a place system?

A No run-off and no place system.

Q All right. Mr. Dewitty's first race, did you recall approximately what his vote total was and where he ran?

A He got 35 percent of the votes and he ran sixth or seventh.

Q What if anything was the response of the incoming

City Council with respect to the method of election of the City Council in Austin thereafter?

A Well, they changed the city charter to adopt a place system. The people had to run for a place and to require a run-off if the person didn't get 50 percent of the votes.

Q And was that the City Council immediately following the Arthur Dewitty race?

A Yes, it was.

Q All right.

JUDGE JUSTICE: Do you have to be a resident within your particular territory?

THE WITNESS: No. These places were city wide. These were multi-member districts.

JUDGE GOLDBERG: They ran at large?

THE WITNESS: They ran at large.

Q (By Mr. Richards:) Do you remember the first attempt of a Mexican-American to run for public office of any kind in this county?

A My belief is the first one was Pat Mendes, an attorney who ran for the school board in about 1954, '52 or '54.

Q Was he unsuccessful?

A He was unsuccessful also. And shortly thereafter, the school board got the law changed and put in a place system

also.

Q All right. During the 1950s --

JUDGE JUSTICE: What kind of a system did they have before they got the law changed?

THE WITNESS: Very similar to what the City Council had. They ran and were elected and the high one won.

(Mr. Richards gave the witness a drink of water.)

MR. RICHARDS: You sound a little dry.

THE WITNESS: I'm nervous.

Q (By Mr. Richards:) Just briefly, during the '50s, what was the status with respect to the presence or absence of discrimination against blacks and Mexican-Americans in Austin?

A Well, Austin has always been a pretty enlightened city, but we did have of course complete segregation in the schools. In the early '50s we had the swimming pools segregated into three tiers.

Q What were those tiers?

A Well, someplaces where nobody but whites could go and some places where Mexican-Americans couldn't go and some places where nothing but blacks could go. And of course until the Delgado case which was in Travis County in 1946, we had three school systems.

Q Blacks, Mexican-Americans and whites, is that correct?

A There began to be some enlightment in the leadership and finally managed to intergrate the public library in 1954. It was that late in doing that.

Q What about the Golf Courses if you remember?

A The Golf Course also, the blacks were not allowed or Negros as they were called then were not allowed to play golf at the municipal golf course.

Q Let's see, to this day has any Mexican-American ever served on the City Council of Austin to your knowledge?

A No.

Q There is now a black member of the city council is that correct?

A Yes, sir.

Q When was he first elected?

A He was first elected two years ago -- well, two-and-a-half years ago now.

Q Was he the first black ever to be elected city Council?

A Yes, he was.

Q What explains his victory as you saw it and based upon your observation?

A On a heavy vote for him among the extremely conservative precincts since he was on the business men's

slate.

Q Let me turn your attention back to the years 1968-1969, was your wife at that time a member of the Austin City Council?

A Yes, she was in 1968.

Q Can you call to mind for us the attempts by the Austin City Council to adopt a fair housing ordinance for the Government of the city of Austin?

A Yes. The Council did adopt such an ordinance in 1968 by a vote of 3 to 2.

Q This was designed to I suppose prohibit discrimination in the sale of real--

A In the rental of houses.

Q All right. What was the response to that?

A There was a referendum petition. It was submitted to a vote and was repealed by the voters. And in the next election, the same voters eliminated the three council members who had voted for it.

Q That was in the spring of 1969?

A Spring of '69.

Q And those three council members were whom, that were defeated?

A Harry Aiken and Emma Long and -- who was the other one?

Q Dick Nichols?

A Dick Nichols.

Q And their defeat in your judgment is attributable to the fact that they had supported the fair housing ordinance for the city of Austin?

A Yes, I think so. I didn't realize it during the campaign because it was a fairly quiet thing. But it was well organized. And during the election day I began to realize that I had been a very poor campaign manager. My candidate lost by 400 votes. But the others lost by far larger numbers, 12,000 and 8,000.

Q Has any black citizen of Travis County ever been a Democratic nominee for any public office of any character whatsoever in this county?

A No, not for public office.

Q You do have now a black precinct chairman for example, is that what you mean?

A Yes.

Q Is that the distinction you are making?

A Several of them, yes, party officers.

Q Now, we have, at least within my memory since being here -- well, I guess no black -- has any black ever run for the Legislature to your knowledge, Mr. Stuart?

A Didn't we have a Republican at one time?

Q Oh, the most recent time I suppose, isn't it, is that correct?

A Yes.

Q In the 1972 general election, is that correct?

A I believe so.

Q He was not though nominated by a contested primary, was he?

A Yes. I believe we had a primary. It was not contested.

Q It was not contested?

A I believe not. I'm not sure.

Q Just in terms of characterizing Travis County, has the Democratic party dominated Travis County?

A Yes, sir.

Q And continues to do so?

A Certainly.

Q Am I correct that the first Mexican-American to ever be nominated in a Democratic primary as far as your recollection was Richard Moya for County Commissioner?

A Yes.

Q And his nomination would have been when? Can you be -- '69?

A Four years ago.

Q Four years ago. 1970.

A Three years ago. 1970.

Q In terms of the legislative politics as distinguished from other kinds of politics, has there been a group

whether formal or informal that has dominated Travis County Legislative politics during the '50s and '60s?

A Yes. It is, as far as I know, an informal sort of thing. The business lobby is a very big part of it since most of them live here.

Q By that, you mean big legislative lobbyists?

A Statewide lobbys of that kind. But the same kind of folks have been elected repeatedly to our legislative delegation for many, many years. It has begun to change some what in a political sense, the liberal versus conservative sense.

Q That was only in consequence of the '72 election, is that correct?

A Yes.

Q When, for the first time, there were large numbers of student participation, is that correct?

A Large numbers of voters.

Q Yes, a large number of voters too. Well, in terms of what you have observed, has there been any meaningful participation by blacks or Mexican-Americans in that group, that informal business mans group or business group that has dominated legislative politics in this county?

A Not that I am aware of.

Q Well, do you think you would be aware of it if there was any such participation?

A I have watched with interest to see and haven't seen much.

Q We have just seen an instance in the case of Larry Bales, an effort to use sort of a racist campaigning against him and his race for election. Have you seen similar campaign tactics used in Travis County legislative races during the '60s?

A Oh certainly. Certainly. They are used all the time. They have for many years.

Q As you see it, how does the at-large legislative district that is presently constituted in Travis County affect the opportunity of blacks and Mexican-Americans to participate in the legislative politics or the politics of this county?

A Well, they try all the time or they have tried a great many times, but without too much success.

Q Where do the blacks and the Mexican-Americans basically live?

A In East Austin.

Q That's on the other side of Interstate 35?

A Yes.

Q Have you ever known of a candidate for the legislature to be elected from that area?

A No, I don't believe so.

Q How do you see the effect of multi-member districts in terms of costs upon the -- for example, the cost of campaigning

upon the aspirations of the blacks and Mexican-Americans?

A I think all poor people have a worse chance of getting elected than rich folks. Anybody without too much money doesn't have too much of a chance.

Q As far as you are concerned, is there any continuing residue of hostility toward Blacks and Mexican-Americans in the voting populace of Travis County that would make it more difficult for blacks or Mexican-Americans to be elected?

A Yes. I don't think all of the civil rights legislation has eliminated the bias in some people's minds.

MR. RICHARDS: That's all we have. Pass the witness.

CROSS EXAMINATION,

By Mr. Korbel:

Q I have one question, Your Honor. George Korbel for the Mexican-American Legal Defense Fund. You said that Mr. Moya was elected County Commissioner, is that correct?

A Yes, sir.

Q And that is a less than County wide post, isn't that correct?

A It is a single member district for County Commissioner.

Q My question would be has any Mexican-American ever been nominated for or elected to a County wide post in Travis County?

A No.

MR. KORBEL: Thank you.

JUDGE GOLDBERG: The Attorney General's Office?

CROSS EXAMINATION,

By Mr. Black:

Q Mr. Long, do you know approximately what the percentage of blacks in Travis County is?

A Around 20, isn't it? Somewhere in that neighborhood.

Q And has it been that throughout all of these years you've been talking about? Approximately that?

A Approximately that. It was a little lower at times, but it has gained a little bit.

Q And what approximately is the percentage of Mexican-Americans?

A Around 25 percent. It has grown from three percent in 1930, it has grown to 25 percent or more now.

Q Now, I believe you said that Mr. Pat Mendes ran for office for the school board in 1954.

A Yes.

Q Now, there is a Mexican-American on that school

Board in the Austin Independent School District at this time, is there not?

A. Yes.

Q. And his name is Gus Garcia?

A. Yes.

Q. And he was not elected by the business community, was he?

A. Not exactly. As I said, there have been changes in Austin's character, political character in the last, since the changes in registration laws mainly.

Q. Do you know when Mr. Garcia was elected to the School Board?

A. Two years ago, was he not?

Q. Has he been re-elected or do you know?

A. No, he hasn't.

Q. And in that same time, a black was elected to the Austin School Board, was he not?

A. No, I believe she was elected two years before.

Q. And that was Wilhemina Delco?

A. Yes. I'm not sure about the year. It was the weekend after Martin Luther King was assassinated.

A. It may have helped.

Q. Well, regardless of that, she ran a fairly vigorous race and was elected?

A. Yes.

Q. By a fairly good majority, was she not?

A. Yes, she was.

Q. Now, both of those people, you talk about this housing ordinance and how participation in that defeated the members of the City Council. Both of those people, that is, Mr. Garcia and Mrs. Delco, were on the Human Relations Committee that initiated that housing ordinance and recommended it to the City Council, were they not?

A. I don't recollect that they were. They may have. I didn't remember it.

Q. Well, assuming that they were, I don't guess you would know whether they voted for it or supported it very strongly, would you?

A. I'm pretty sure she did. I don't remember about Mr. Garcia.

Q. You really can't imagine that Mr. Garcia would not support the housing ordinance, can you Mr. Long?

A. That's right.

Q. Sir?

A. No, I can't imagine it.

Q. All right, sir. Now, this Mr. Hancox who has been on the City Council, the black on the Austin City Council, you say that he was on the business man's slate. Was he on any other slate?

A. Yes. I believe he got pretty extensive support in the black community.

Q. What about the Mexican-American community?

A. I just don't remember, I assume he did.

Q. In connection with the housing ordinance, do you remember what the vote was on that, those for and against?

A. It was repealed as I recall it by 3,000 or 4,000 vote majority.

Q. And how many people voted for it?

A. About 14,000, 13 or 14,000.

Q. About 20,000 voted against?

A. Yes, I believe that's about it.

Q. I don't want to get into an argument with you about details, but there was a substantial vote for this housing ordinance that came from the white community of this county, was there not?

A. Oh, yes. It wouldn't have come that close if there hadn't been.

Q. All right, sir. Now, this Mr. Nichols, Dick Nichols who was you say defeated because of the housing ordinance, he was re-elected the next time, was he not?

A. Yes.

Q. And then defeated again?

A. Yes.

Q. Now, the second time he was defeated was not because

of the housing ordinance, was it?

A. No, I think it was because he had lost his original support.

Q. Do you feel that the blacks and the Mexican-Americans in this area participate in political campaigns and do they have slates and support candidates?

A. Some of them do.

Q. Would you say that it's a vigorous participation or indifferent or how would you describe it?

A. Depends upon the issues and the candidates. They can get worked up on some campaigns and others they don't.

Q. Are they divided into any factions among themselves to your knowledge?

A. Yes, sure.

Q. Sir?

A. Certainly.

Q. Do you think that in any way impedes their effectiveness?

A. Well, everybody is divided into factions. It is a little more noticable in political activities within the groups because you kind of hope as a campaign manager that you will be able to get some benefit from it, yes. You hope that. You don't approach campaigning with a group of whites in the hope they are going to vote together. You just take, pick out one bunch of whites and try to get them to

stick together and another one and another one. A campaign operation generally takes a little different approach to whites and Mexican-Americans.

Q. Now, this group that you say dominates Travis County politics, that's history, isn't it, Mr. Long? They don't dominate it anymore, do they?

A. No, as I say, there has been a change in the last election I would say. The last two or three elections.

Q. And it has changed in city politics in the last election we have had, hasn't it, to a certain extent?

A. Very little. One-seventh.

Q. I'm afraid I don't understand.

A. The last City Council switched one place.

Q. All right, sir.

A. Politically speaking.

Q. I have one other question, Mr. Long, before I let you go. I didn't understand your statement that before 1948 the schools in Travis County were segregated against Mexican-Americans.

A. Yes.

Q. What schools are you talking about?

A. Well, the one they call the Chili School?

Q. Well, you were talking about there were schools that were primarily Mexican-Americans and those that were --

A. They were entirely.

Q. But there were schools, I mean there wasn't any -- this may have been just an invidious result of housing conditions or whatever it is, but the schools were not by law segregated in Travis County in the '30s or the '40s, were they, Mr. Long?

A. Not by law, but by practice.

Q. Did you ever hear of the Allen Junior High School?

A. Yes.

Q. Would you say that it was a segregated school in Travis County?

A. No, but in the Delgado case, Dell Valley had a segregated school.

Q. I'm talking about Austin.

A. That's Travis County.

Q. Sir?

A. It was --

Q. Excuse me, I'm not talking about Dell Valley. I'm talking about the Austin Independent School District.

A. Yes. They had schools that were solidly Mexican-American only until they were closed after this case.

Q. But they also had schools that were mixed, did they not?

A. Some.

Q. Sir?

A. Some mixed at the higher levels.

Q. Right.

MR. BLACK: That's all the questions I have.

MR. KORBEL: Your Honor, we have one question.

RECROSS EXAMINATION

By Mr. Korbel:

Q. George Korbel again for the intervenors, Moreno et al. In the Delgado case in Bastrop, there was a separate Mexican school where only Mexican school children attended and that was the only school that they could attend, isn't that correct?

A. Yes.

Q. Isn't it your understanding they had the same practice by School Board policy in Austin, that there was a separate Mexican school that only the Mexican children attended and that was Zavallo and those schools?

A. Yes. That's right.

MR. KORBEL: Thank you very much.

JUDGE GOLDBERG: Anything else? All right, we will stand in recess until 9:00 in the morning.

(The Court recessed at 5:00PM.)

AUSTIN, TEXAS
DECEMBER 4, 1973
SECOND DAY OF TRIAL

JUDGE GOLDBERG: Good morning, one and all. I think we are on a tour of Travis County, hopefully no detours through the day, no blowouts, no blowups.
All right?

MR. RICHARDS: A brief detour, Your Honor, as we open this morning, Mr. Korbel has a witness to put on the stand, Representative Reyes.

JUDGE GOLDBERG: Representing what?

MR. RICHARDS: Representative Reyes from Houston is the next witness to be called by Mr. Korbel as a part of our overall case.

JUDGE GOLDBERG: From Houston, Harris County?

MR. RICHARDS: We're not asking you to alter the districts in Harris County. It's just a part of our overall case.

JUDGE JUSTICE: What do you mean part of your overall case?

JUDGE GOLDBERG: I thought maybe we were going to go through 254.
(LAUGHTER)

MR. KORBEL: It's an unexpected stipend, but I hope it will be helpful.

George Korbel, representing the Plaintiffs Moreno, et al.

BEN T. REYES,

a witness called by the Plaintiffs Moreno et al, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. KORBEL:

Q. Would you state your full name and address for the record, please?
A. Ben T. Reyes.
Q. What is your address?
A. 1006 Zoe, Houston, Texas, 77020.
Q. What is your occupation?
A. I am a member of the 63rd Texas Legislature.
Q. How old are you, Representative Reyes?
A. I am presently twenty-six years old.
Q. How old were you when you were elected to

the Legislature?

A. Twenty-five.

Q. Representative Reyes, were you elected from a so-called single-member district?

A. Yes, I was.

Q. Can you describe that district?

A. My district is the richest district in the State of Texas. It encompasses all of downtown Houston, all the major banks, all the major law firms. It encompasses the Port of Houston, all the industry in and around there, and I guess you would say it probably has the poorest people of Houston. It has the Second Ward area, the Mexican-American community, the Fifth Ward area, which most people in Texas are aware of now because of Mickey Leland's work in the Fifth Ward area.

Q. Mickey Leland, he would be a Representative from Houston also?

A. Yes, he won the race from the Fifth Ward.

Q. What is the percentage of breakdown of the Mexican-American and black in the precinct?

A. It's about 47 percent Mexican-American, about 27 percent black and the rest Anglos.

Q. Can you give the Court an idea of the relative size of that district?

A. I would say it is about 7 by 3.

Q. Seven miles by three miles?

A. Seven miles by three miles.

Q. Can you describe how you ran for the office of State Representative from this single-member district in Harris County?

A. Well, I think the only way I got elected was the fact that I was a member of that community, and I knew most of the folks that lived there. I was raised either with their children or them. I went to church with the same people. I was a neighbor to them. I did a lot of work in voter registration about four years ago and participated in a lot of voter registration activities, a lot of community fund raising for folks that were burned out or had problems in their families. I did a lot of door knocking. I did a whole lot of work as far as an individual is concerned, a lot of one-to-one things.

Q. A lot of shoe-leather politics?

A. Yes.

Q. Did you have any opposition in the Democratic primary?

A. Yes, I had three opponents. I had a black opponent, an Anglo and another Mexican-American.

Q. Did you have to run in a runoff also?

A. Yes, I was in a runoff.

JUDGE JUSTICE: Who was your opponent?

THE WITNESS: A Mexican-American.

Q. What was your total cost for the Democratic primary and the runoff? What was the total cost that you spent for the election?

A. I spent approximately $3,800.00.

Q. Did you use any television?

A. No, I couldn't afford television.

Q. Did you use any radio?

A. Yeah, I spent about $1,600.00 or $1,700.00 on radio.

Q. Did you have an opponent in the general election?

A. No, I didn't have an opponent in the general election.

JUDGE GOLDBERG: Is it a foreign-language radio?

THE WITNESS: No, it was split in the black community and the Mexican-American community.

JUDGE GOLDBERG: You mean the radio station was beamed to those?

THE WITNESS: Right.

JUDGE GOLDBERG: Good.

Q. So you were able to utilize radio stations which catered to specific minority groups. Is that correct?

A. Yes, uh-huh.

Q. Are you from a wealthy family, Representative Reyes?

A. No, I'm not. My dad works for the railroad right now.

Q. What is his yearly income?

A. He makes about $8,000.00 now.

Q. Besides being a State Representative, what is your occupation?

A. I do that full time.

Q. Harris County was cut into several multi-member districts for the elections, the elections held for the State Legislature prior to your successful election. Can you describe the awareness of your constituency under the multi-member district scheme in Harris County?

A. Well, in my community none or very little awareness of the fact that we even had a State Legislature.

Q. When you started going door to door, talking to these people, they told you what?

A. Most of the people were really turned off at the whole political system, not only at the State level, but on the national, the local and the nation, and in most of the Chicano community the situation was such that, "Well, you know, I have been voting --". The people that had been voting said, " I have been voting for the last ten or fifteen years, and I have seen no results, no benefits come from it.

We have not been able to elect representation," people that represent their interests and their problems, and most of the people were generally apathetic about the political situation.

Q. What was the registration among Mexican-Americans, let's say?

A. I would say at that time of the eligible Mexican-Americans it was about 16 percent.

Q. Since you were elected have you participated in drives to increase registration?

A. It was way before I got elected that I started participating in drives, and since then we have raised it to about 33 percent of the eligible registered Chicano voters in the district. I think you can cover that with the participation in one Chicano precinct, in the Second Ward, which is Precinct 9. We've got participation not only in the politics or the political matters where we have candidates running, but you've got people now interested in bond elections, which is really something that we haven't had in the past. In that precinct in the bond election three years ago we were able to turn out 25 voters. It was close to a $40,000,000.00 bond election. This last bond election created a mass transit commission in Houston. We had over 245 people vote in that same precinct. Generally the same people live there. Most of

the people, the average age around there is about fifty-five -- fifty-four years old. They've been there a good while.

Q. To what do you attribute this increase in political awareness and registration?

A. Well, it's a number of things, but I think the most important thing is that somehow that community has come together, and somehow the people from that community feel that if informed and if someone cares about their situation, then they should be participating. The fact that a lot of people have gone out to do voter registration, have gone out to talk to them about the bond election, to talk to them about the cable T.V. issue, they've become to a great extent involved in the political situation.

Q. Representative Reyes, how do you view your position as a State Representative?

A. Well, I take a real strong stand toward the social problems of people. I think that my job as a legislator would be, if you look at it on percentages as I do, I would have to say that I would want to spend about 20 percent of my energies and my time dealing with legislation and dealing with the Legislature and about 80 percent of the time or 80 percent of the energy dealing with the local problems of the people in the district.

Let me cover some of this and try to explain one of the reasons I feel that that's so important that you spend so much time in that district. I am able to do it, because I have a very defined constituency, and my constituency to a great extent knows that I am responsible to them. I spend a lot of time working on local problems, and I'm really worried about the situation, not just in Houston, but all over the state.

Q. Do you have some specific examples of local problems that you are particularly aware of, because you live in that district?

A. Well, I would say that the problem with a lot of the people in that district and a lot of the people in that district not participating in the past is because they have never really been involved in the situation. With an office and the time we spend in the district we have run into a lot of people and a lot of their problems?

Q. You have an office in the district?

A. Yes, it is centrally located in the district.

Q. Prior to your election did anyone ever have a political office in the district, a permanent political office?

A. No, most of them were out in some office complex next to the Gulf Freeway, I think. I think that some of the problems that were local you have to work at

for two or three purposes. One would be to, of course, keep the constituency informed, and another is just generally to take care of the problems that people have there. I have people that call me at 2:00 and 3:00 o'clock in the morning. The most recent one was a mother that had a son in the County Jail who was an epileptic, a minimal brain damaged kid, and she called me and said, "Mr. Reyes, my son has been in jail three days, and he's supposed to be taking his medicine that he has to take for his condition, and the doctor at the County Jail is giving me such a hard time and says that if he gets sick he is just going to take care of himself." Well, I called the Sheriff in the county and just told him that I was outraged at that situation, and about thirty minutes later I got a call back from the doctor himself, and he told me that he was going to have a lieutenant waiting downstairs for that mother to come and bring that medicine so that they could have it administered to that boy. Now, this would have been about two or three days after she had started her inquiries about trying to get that situation taken care of.

Q. It's important for someone to be able to pick up the phone and say,"This is Representative Reyes. I've got a problem. I want you to listen to it." Is that right?

A. It's very important, because a lot of the people in the district have really gotten fed up with politicians in the past making a lot of promises and not really delivering, not really getting down and dealing with their problems, their little problems, the problems of driver's licences, old age assistance, their problems about Social Security, and to a lot of people they are very little and very minor problems that are irrelevant, but to these people that would mean the difference between eating one month and having the same food to eat the next. I think that aspect of my involvement as far as the Legislature is the most important, because I now see a lot of people that have been disenfranchised with the political system and with the system in general. I now see them participating. I now see them involved in the situation. A lot of senior citizens in my district have gotten -- I don't know -- just gotten a new lease on life, as far as I'm concerned, because they feel that someone cares about their situation and someone that they elected.

I think that in the future you're going to see a lot of involvement as far as these people are concerned.

Q. Representative Reyes, one of the bills you carried in the Legislature at the last session was a bill to allow taking of the driver's license test in Spanish.

Can you elaborate on the reasons behind that bill?

A. Yeah, that's a very important thing, and again, it's very minor to most people, and most people in the Legislature just really weren't turned on. It was not a major thing. It was minor. It wasn't minor to me. I felt that it was one of the most important things that I have ever done, because my dad can't read, and he was in a situation on his job where he was going to lose his job if he didn't get his commercial driver's license, and he had been with the railroad for about twenty years. The family went through a complete crisis, because we didn't know whether he was going to have his job next week, whether he was going to be able to finish paying for the school for the eight kids that were in school at that time or what. We didn't know how he was going to learn or how he was going to be able to pass that exam, so he went and he got every available commercial driver's license examination, and he memorized them. It took him three months to memorize them.

The kids at that time were in the 6th,7th and 8th grade, and we translated for him. Took him three months to memorize the exam. He went down there and took it and passed it. He got his driver's license, so I felt that that kind of a situation wasn't necessary, that there was a lot of folks all over that city and all over this

state that were in the same situation, were having the same problem or were going to be faced with it down the line, and I just felt that it was very important to do that, not just for my dad or for that situation, but for the people that were going to be faced with that in the future.

Q. Representative Reyes, we have had several legislators testify both by deposition and live in that case referring to the fact that they voted in favor of the bilingual education act in the last session of the Legislature. Was that a hard bill to vote for?

A. No, it wasn't hard at all. It was like motherhood and apple pie at the time.

Q. Why was that?

A. Well, it didn't have any money. I mean if we had spent $20,000,000.00, I could understand it.

Q. How much money did the bill have in it?

A. $3,000,000.00 a year.

Q. For the entire State of Texas?

A. For the entire State of Texas and that might cover the gas for two or three people and the salary, but it really didn't have any teeth in it. I think, and I don't mean to say that we haven't gone forward in that direction, and I know that it is progress, but it is something that should have happened twenty years ago. It is funded at a measly $6,000,000.00 at this point. I think it is very

slow as far as progress is concerned.

JUDGE GOLDBERG: Did the driver's education bill pass?

THE WITNESS: Yes, sir.

JUDGE GOLDBERG: What was the vote?

THE WITNESS: It went on the consent calendar, sir.

JUDGE GOLDBERG: In other words, there was no real opposition?

THE WITNESS: None whatever.

Q. If bilingual education had been adequately financed in your view, would it have passed the Legislature?

A. If we had financed it for $20,000,000.00 or so, it would have had a very hard time passing the Legislature.

MR. BLACK: Your Honor, this is sheer speculation.

JUDGE GOLDBERG: I think you're going awfully far with this. I think it is interesting, extremely interesting, but I don't know how determinative it is to anything before the Court. Maybe you can explain it to me.

MR. KORBEL: Well, Your Honor, the reason we're offering this witness, the State in their deposition---.

JUDGE GOLDBERG: There are a lot of reasons for this witness. I'm not discounting his testimony. I'm just talking about the details of the legislative process.

MR. KORBEL: Oh, I see. I'll move on, Your Honor. I'm sorry.

Q. Now, the legislature is going to be sitting as the constitutional convention in January. Is that correct?

A. Yes, January 8th.

Q. Is the question of multi-member or single-member districts going to be considered by the constitutional convention?

A. There's a section in the proposed Constitution that would call for single-member districts within the senatorial districts that would also be single member.

Q. You know what the makeup of the Legislature is. Do you have an opinion as to whether or not there is a chance the single-member districts might be adopted by the Legislature?

A. Oh, I could base my opinion on the vote we took on the last redistricting bill -- three different votes we took on the last redistricting bill, and I don't think it will pass.

JUDGE GOLDBERG: What were those votes?

THE WITNESS: They were votes to allow the author in the last three or four days of the Legislature to introduce a redistricting bill, and we held about 41 votes on all three of those votes.

Q. Forty-one out of a 150, as you see it now. Is that right?

A. Right.

Q. By the same token, do you suppose that if this Court were to order single-member district elections for some or all of the multi-member districts under consideration, would this seriously impair the ability of the representatives to participate in the constitutional convention?

A. I don't see how it could.

Q. One last question, Representative Reyes. When Harris County had multi-member districts, did you ever give consideration to running for the State Legislature.

A. I could have never afforded it.

MR. KORBEL: I have no further questions.

JUDGE GOLDBERG: Anyone over here (indicating)? Mrs. Levatino?

MRS. LEVATINO: Liz Levatino, Attorney General's office.

CROSS EXAMINATION

BY MRS. LEVATINO:

Q. Mr. Reyes, would you say that Houston or Harris County is typical of most of the legislative or cities in the state, legislative districts or cities in the state?

A. No, I don't think so. They are all single-member districts in Houston.

Q. I'm not talking about -- well, do you think that Houston and some of the problems contained in a city of well over a million people are the same as problems that may be in such cities as Edinburg, Lubbock, Nueces -- or Corpus Christi?

A. I think in minority communities they are just about the same because of the migration flow from those cities into Houston.

Q. Do you think that the fact that under the prior Houston or Harris County districting scheme that you had in excess of 18 members, I believe, running generally at large, even though there was some breakdown, would be much different that in a district where you had only 2 members running?

A. At large?

Q. At large.

A. I think the situation would be similar to that.

Q. Then it is your opinion that a person who went to vote in a primary, in the Democratic primary, for only candidates running for two places would be put in the same situation as a person who was voting for candidates in a primary with up to eighteen places?

A. Yeah, I think that would be the situation.

Q. O.K., I would just like to check one other thing. You mentioned the redistricting bills that were brought up during the 63rd Legislature before the House.

A. Yes.

Q. Are these the ones that you were referring to where they were attempting to make single-member districts in Tarrant County?

A. Yes, uh-huh.

Q. And you also mentioned this bill was brought up -- a point of order to bring the bill up without going through the normal committee processes. Is this true?

A. No, it went through the normal committee committee processes. It was just that in the last days of the Legislature in order to bring it out of order on the calendar you have to have two-thirds of the vote.

JUDGE GOLDBERG: Mrs. Levatino, would you

pardon me for interrupting. I have a note that if there is a man in the courtroom by the name of Warren Gonzales, San Antonio, his car is going to be ticketed and impounded by the Austin Police Department for blocking the alley at the back of the courthouse. Thank you very much.

MR. RICHARDS: It's not in Judge Roberts' place, I hope.

JUDGE GOLDBERG: Well, I don't want -- I'm sorry to delay the tour we're on.

(LAUGHTER)

Q. But in getting the bill before the House floor, it did take a two-thirds vote, rather than a simple majority vote, did it not?

A. Yes, to get it out of the regular order calendar.

Q. And by how many votes did that particular move fail?

A. Oh, I would say about six.

Q. By six votes?

A. Yeah, you had to have two-thirds, and we had about 41 or 42. It varied.

Q. So if it hadn't been for that two-thirds requirement the bill would have passed the House?

A. Well, a lot of bills would have passed the

House if it hadn't been for the two-thirds requirement.

MRS. LEVATINO: Thank you. No further questions.

JUDGE GOLDBERG: Mr. Gladden?

MR. GLADDEN: Yes, Your Honor. I didn't intend to cross this witness, but since Tarrant County came in the picture, I would like to ask the gentleman something.

CROSS EXAMINATION

BY MR. GLADDEN:

Q. Mr. Reyes, in connection with this, the normal procedure for the introduction of legislation and the passage of legislation does not require a two-thirds vote in the House at any stage if it goes through the normal process. Is that not correct?

A. Right.

Q. And if a bill had been introduced in accordance with the mandate of this Court early in the session and gotten a low enough number and been processed through the committee procedure, it would have been out and on the calendar and taken up in its usual order of business. Is that not correct?

A. That would be correct, but during the first part of the session no one really tried to get a bill through. They were all waiting more or less on the Court.

Q. They were waiting on the Court?

A. Yes.

Q. I think they've been waiting on the Court for several years, have they not?

A. We have.

Q. In that connection also, in terms of processing---.

JUDGE GOLDBERG: What Court?

(LAUGHTER)

JUDGE GOLDBERG: You mind asking him?

Q. What Court were they waiting on?

A. I think at that time it was Supreme Court that was ruling on it.

JUDGE GOLDBERG: I see. Thank you very much.

Q. In connection with the process and procedure that was followed, Representative Finney was on the redistricting committee, was he not?

A. He was a member of it.

Q. He also was Chairman of the State Affairs Committee, was he not?

A. Yes, he was.

Q. As Chairman of the State Affairs Committee,

are you familiar with any legislation that Mr. Finney wanted to get up and onto the calendar that he didn't get up, other than this bill?

A. No, I'm not. I didn't follow State Affairs that closely.

Q. State Affairs is probably the most powerful committee in the House---.

A. I wouldn't say that.

Q. ---except for taxes---you wouldn't say that?

A. I wouldn't say that. Appropriations, calendar committees -- that's what kept him from getting his bill up before the House.

Q. The calendar committee kept that bill from coming up?

A. Well, if he had been Chairman of that committee, he wouldn't have had any problems.

Q. Do you feel like that there was any real serious effort made by the last Legislature to bring up and take into consideration the possibility of single-member districts?

A. I don't think there was a serious effort to bring up an equitable plan. My objections-- I was on the Reapportionment Committee, and my objection to the plan that was submitted by the Tarrant County people was that it gerrymandered the Mexican-American community so horribly.

EXAMINATION

BY JUDGE WOOD:

Q. Mr. Reyes, there have been repeated reports in the media that there is a possibility that the Legislature, acting as a constitutional convention in January of 1972 (sic) may act with reference to single-member districts or to decrease the size of the multi-districts to comply with the proscription of the Supreme Court in this case.
What is the present plan as far as you

Q. Actually, that bill was just to take care of each other, was it not, rather than the community?

A. I don't know what their intentions were for carrying that kind of legislation, but my opposition to it was that it cut our community in that city in four different places.

MR. GLADDEN: I believe that's all. Thank you.

MR. KORBEL: I have nothing further, Your Honor.

JUDGE WOOD: May I ask one question?

JUDGE GOLDBERG: Surely.

understand it, of the Legislature that have been proposed that have some possibility of being adopted by the Legislature sitting in constitutional convention?

A. I think at this point---. Again, I would have to base my remarks on what happened in the last Legislature -- I think that this point we're going to get very little or the least amount of single-member districts as possible. I think that the last time around people were willing to just barely give, as far as the single-member districts were concerned.

Q. I understand that, but there are several proposals that have been made, one of which would decrease the size of the multi-districts to something within the confines of the present size of the senatorial districts and divide them in that basis to further come within the proscription of the Supreme Court in this case which was decided earlier or to create single-member districts.
What is the one that you feel has the best chance of being adopted, if one is the best plan, or do you have any thought on it?

A. At this point I wouldn't think with the composition of the present Legislature we wouldn't get single-member districts.

Q. All right, that leads me to my last question. Is there a possibility that the Legislature by its own

action, acting as a constitutional convention, could it adopt a single-member plan or a multi-district plan that meets the requirements of the Supreme Court in January of this year that would render this case moot?

A. I don't think so.

Q. How soon will we know that? In other words, they're going to meet in the early part of January. I think it's the 6th, isn't it?

A. The 6th or the 7th, somewhere around there.

Q. 6th or the 7th, all right. How long in your opinion will it be that they render the decision that would render this case moot?

A. It still has to be approved by the voters.

Q. I understand that.

A. Before you know they have done anything in the Legislature, it will be ninety days.

JUDGE WOOD: All right, that's what I wanted.

EXAMINATION

BY JUDGE GOLDBERG:

Q. Mr. Reyes, you know something about the Mexican-American communities generally in the metropolitan areas of Texas.

A Yes, sir.

Q You have stated it is your opinion, I think, that in Harris County the Mexican-American under multi-member districts did not have access to the political operations of Harris County and in the legislative races in Harris County, right or wrong?

A That's right. We not only---.

Q I understand. Just let me present the question. Based on your knowledge of the Mexican-American community in other large metropolitan areas, such as Fort Worth or Nueces County and others, based upon what you know about the community, based upon the legislative bills that have been presented or not presented to the Legislature, is it your opinion that the Mexican community does not have access to the political machinery operative in the legislative field in the State of Texas?

A That is my opinion.

JUDGE GOLDBERG: Thank you.

JUDGE JUSTICE: Is there anything else, gentlemen?

MR. KORBEL: I have nothing, Your Honor.

FURTHER CROSS-EXAMINATION

BY MRS. LEVATINO:

Q Mr. Reyes, in regard to a few things that were just brought up, you stated in your first testimony that you felt that the Mexican-Americans in Harris County and especially in your district did not vote generally. They were not active in the political process. Are you aware of any overt or covert attempts to prevent them by the Democratic or Republican party from becoming active in this process?

A Well, the only one that I could cite was the first time I went with my dad to vote, I guess in about '58 or '59, and he couldn't speak English very well, and when he went to vote, he asked the precinct judge for some help, and he laughed at him, and he didn't vote for the next ten years. That kind of stuff was around.

Q Are you aware of whether or not any overt or covert attempts to prevent Mexican-Americans from voting or becoming involved in the elective slating processes that existed -- are you aware specifically in any other area of Texas other than where you live?

A No, I am not.

MRS. LEVATINO: Thank you.

MR. KORBEL: I have nothing, Your Honor.

JUDGE GOLDBERG: Any other questions? Step down, sir.

(WITNESS STANDS ASIDE)

MR. RICHARDS: Charles Miles.

JUDGE JUSTICE: Does this relate to Travis County?

MR. RICHARDS: Well, yes, Travis County and to a certain extent statewide.

MR. KORBEL: I have a witness to prepare. May I be excused?

JUDGE GOLDBERG: I can't hear you.

MR. KORBEL: I have a witness to prepare, Your Honor. May I be excused?

JUDGE GOLDBERG: Yes.

MR. RICHARDS: In this connection, Your Honor, we do tender this witness with respect to Travis County, but because he is also an employee of the Civil Rights Commission, he has some statewide exposure, so there will be some questions with statewide implications.

CHARLES MILES,

a witness called by the Plaintiffs and Intervenors, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDS:

Q Could you give us your name, please, sir?

A Charles Miles.

Q You can pull that microphone closer, Charles. How old are you.

A Thirty-five.

Q Where were you born?

A Hearne, Texas, Robertson County.

JUDGE JUSTICE: You need to pull the microphone closer or speak louder, please.

Q Let's see, Charles. When did you first move to Austin?

A 1956.

Q Was that as a student at the University of Texas?

A That's correct.

Q And you have lived in Austin continuously since 1956. Is that correct?

A Yes, I have resided there.

Q Are you a graduate of the University of Texas?

A Yes.

Q After graduating from the University of Texas, what was your first employment?

A Taught in public schools in Austin, Keeling Junior High.

Q Over what period of time did you teach at Keeling Junior High?

A 1960 to 1965.

Q Where is Keeling located just generally in Austin?

A It's located in East Austin on Pennsylvania about eight blocks east of the Interregional.

Q When you say East Austin, what do you mean by that?

A Well, I mean the predominantly black part of East Austin when I say East Austin going from 6th Street, all the way east probably to the county line and up to Interregional, cutting across around 38th and then on up beyond Manor Road to the county line seat.

Q Is all or virtually all of the black

population of Travis County concentrated east of the expressway or Interregional Highway?

A It is.

Q Was Keeling all black when you taught there?

A Yes.

Q When you ceased teaching at Keeling, where were you employed next?

A Gary Job Corps Training Center in San Marcos.

Q Just basically what was that employment? What kind of work was that?

A I was a teacher and counselor in the Job Corps at the Job Training Center for government-sponsored job training for young people from all over the country, young male adults 16 to 21.

Q And from the Gary Job Corps what was your next employment, Mr. Miles?

A Executive Director of the Austin Human Relations Commission.

Q Was that a municipally created human relations commission here in Austin?

A That's correct.

Q Over what period of time were you employed as Executive Director of that commission?

A 1967 to 1969.

Q And you are currently employed where?

A With the Southwestern Regional Office of the United States Commission on Civil Rights.

Q That Regional Office is in San Antonio, isn't it?

A It is.

Q But you still maintain your residence here in Austin. Is that correct?

A That's correct.

Q Speaking generally, just as a matter based on your experience across the state, have you observed any similarities with respect to the black communities across the State of Texas that you could say were typical of the black communities across the state in urban areas?

A Well, for the most part they are located in solid areas in one section of the city. That's true in Austin. Of course, we have pockets in other sections that exist, and once you get beyond the location, the similarities become the same. You have for the most part run down communities, dilapidated, poor city services, poor housing, difficulty getting access to the process to get anything done about these problems, and for the most part the black communities have their own institutions that don't reach out of the black community to any extent.

Q By institution you mean what sort of things?

A Churches, social clubs, just everything that

makes up a community.

Q Have you noticed or can you comment about the frequency or lack of frequency of physical barriers that typically affect or isolate the black communities in urban areas?

A Well, for the most part there is some type of physical barrier that exists. It might differ in the type. In some cases it might be a railroad track. Some cases it might be a freeway. Some cases it to some extent might be a river, but for the most part it is some type of barrier. In Austin you have the freeway, you have the University of Texas, the State Complex and the downtown area that separates the black community from the rest of the city basically.

Q In Austin I think you have generally given us the confines of the black community. In the period of time that you have lived here, as you have observed it, has the black community become more or less concentrated in a single area in Austin?

A It has become more concentrated. It has become larger. It has expanded basically east, to a small extent northeast, but basically east.

Q What has contributed, as you have observed it, to this increasing concentration?

A Well, several things. One important thing

is the fact that most of the institutions, as I stated earlier, are located in East Austin. Most of the things the blacks belong to, most of the things that blacks use, such as churches, are located in East Austin, and the schools were segregated up until sometime in the late '50's, so most of the blacks, no matter where they lived, went to the schools that were located in East Austin, and in that way, because of the difficulty in getting transportation, most of the people wanted to move into the community where the school would be relatively close.

There has been a great deal of public housing in Austin built in the last 15 years, and all this housing to my knowledge has been built in East Austin.

Q Was this segregated public housing in Austin?

A Yes, it is still for the most part segregated.

MR. RICHARDS: In this connection, Your Honor, we have an exhibit in evidence with the findings from the District Court of Judge Roberts here in the Blackshear case which will in more detail set forth the segregation of public housing in Austin, and it is an exhibit in this action.

JUDGE WOOD: For the record, what number is it?

JUDGE GOLDBERG: Give it to the court reporter.

MR. RICHARDS: Yes, it is marked, and I'm

sorry. It is our exhibit, Wright Exhibit 22.

Q Were there black pockets, black residential pockets, in Austin that were outside the East Austin area at one time?

A Yes, you have a pocket in South Austin, another pocket called Clarksville that is located in West Austin.

Q What has happened with respect to Clarksville?

A Well, it's almost gone. Most of the people have moved out for various reasons. One of the reasons, of course, is the fact that the schools that they attended were in East Austin. The second reason, a very important reason, was the fact that the freeway, I think it is called the MOPAC or Crosstown -- I don't know exactly which one -- is running directly through Clarksville, and, of course, all the people are going to have to move whether they want to or not, and most of them are moving to East Austin.

Q Characterize, if you will, for us the Clarksville area with respect to services, curbs and gutters, drainage facilities, in the black area we're talking about.

A Well, it's totally dilapidated. I mean the streets aren't paved. There are no services, and it appears it was just completely ignored deliberately. Most blacks feel that it was deliberately ignored in an effort to get these blacks out of Clarksville. That's what it amounted to.

Q The Clarksville area actually abutted or was adjacent to an affluent white area off of Enfield Road in Austin. Is that correct?

A Yes, probably the most affluent area in Austin.

Q I gather the streets in the Enfield area were all paved, were they not?

A They are.

Q But I take it to this day in the Clarksville area to the extent the residents are still in Clarksville, the streets are still unpaved, aren't they?

A That's right. That same thing is basically true for another area I didn't mention called St. Johns located in Northeast Austin. It has the same situation with the exception of they did run a freeway to the edge of St. Johns, but for the most part it has been left there to deteriorate to the extent the houses---.

Q Well, we drove through St. Johns last week, did we not?

A Yes, sir.

Q And to get to St. Johns, to the St. Johns area, which is all black, is it not?

A That's right.

Q You drive through an area of white middle class housing. Is that correct?

A That's right.

Q Can you differentiate for us, if you will, the quality of the streets in the black area of St. Johns, as distinguished from the white area, as you approach it?

A Well, the streets aren't paved at all in St. Johns except the one street that runs through St. Johns that leads from the freeway to the predominantly white area adjacent to St. Johns. Obviously, the city does not enforce any of the codes, because much of the housing is dilapidated, and I'm sure that really people shouldn't be living in much of the housing that exists in St. Johns, so, obviously, the codes aren't being enforced and just the general -- it just looks like the area has been completely forgotten, and I think it has been forgotten deliberately by the city, because it is a sore spot to that area, and they would rather see it go than to be there.

Q You say they. The feeling is the city---.

A The people who make the decisions for the city, not necessarily just the City Council.

Q Is that generally the view of the black community in Austin that the St. Johns and Clarksville areas have been deliberately ignored as an attempt to freeze them out?

A Yes, that's the view of the mass of the black community.

Q Based on both your experience in Austin with the Human Relations Commission and your work in Austin, what would you say with respect to the status of the Mexican-American community as regards the areas we have talked about, housing and employment and that sort of thing?

A I think it is very similar, basically the same. I'm not sure about the pockets, whether or not they have as many pockets with regard to the Mexican-American, but the area where the mass of the Mexican-Americans live is adjacent to the black area, and you can't tell a great deal of difference where you go out of one into the other. If you take Montopolis, which is in Travis County, you could consider it somewhat of a pocket of black and Mexican-American. The streets aren't paved in much of Montopolis. It took a great deal of effort on the part of a priest out in Montopolis to get anything done about that area. They have gotten a little done, but not much.

JUDGE JUSTICE: What are you calling that?

MR. RICHARDS: Montopolis, M-o-n-t-o-p-o-l-i-s.

Q You have told us a little bit about it, but what is the pattern with respect to black social, business and religious institutions in Travis County? Where are they located, and what is their makeup?

A Well, first of all, they are all black. Of

course, we can start with that. Then they are basically located in East Austin. I'll take the church, first of all. You have numerous churches in East Austin, especially Baptist churches, and they are all black. It is an important institution. Most of the inter-church activities are between the churches that are located in East Austin, and most of the other social civic type of activities are centered around such things as social clubs, social fraternities, some things like that, and basically they are -- well, not basically -- they are all black, and in some cases they have founded -- I think they have a Lions Club and Kiwanis -- not Kiwanis, but Optimist Club in East Austin.

Q Black, of course.

A They're black also, but all the institutions in Austin that are black are in East Austin, and they don't reach across into the other sections of the city in any fashion.

Q What about the white parallel institutions, and the fraternal and business organizations, the clubs, the churches?

A Well, just the opposite, as far as I know. Basically, they are all white, and in a few cases a few blacks have been admitted to some of the predominantly white fraternal groups, civic clubs and things of that nature, but not the mass of the blacks. In other words, the blacks

who have been admitted were people who were picked to be admitted by those members of that organization, not the -- it's not just a walk-in thing for blacks. I think in some cases the people have to be sponsored by some of these organizations, and, of course, there's not a great many blacks who are sponsored by whites who belong to these organizations.

Q As you have observed it just bluntly, to what extent, as you have seen it, is the white community of Austin even aware of the black community in terms of its leadership, institutions and its activities?

A I don't think the white community is very aware. I think they are aware at the level that they think they are aware of the leadership and so forth in the black community, but for the most part the white community is not aware and is not conscious of the real leadership that exists in the black community. There are certain people that invariably time after time will be tapped as a black leader, but the people who really have the most influence with the black people in the black community are many times not even known by the white community, even the white leadership.

Q What you are saying is that the communities are so spearate that it is perfectly natural that there could be significant community leaders in the black

community who are utterly unknown in white Austin.

A There are community leaders in black Austin unknown in the white community.

Q Has the presence of the State government in Austin as a source of employment been of any significant benefit to blacks in Austin, as you have observed it?

A Not significant, because most of the jobs that the blacks have been able to get in State government are very menial type of jobs, custodial type jobs. For the most part I would say that blacks have been eliminated by such things as tests, and even more importantly, the way the State goes about hiring people. That is, they don't have the centralized personnel agency, and word of mouth is used a lot, as I understand, and since blacks aren't in the clubs and the places where these people communicate and get this type information, blacks are excluded from meaningful jobs in State government.

Q Does the patronage system work here too?

A I think it does. I'm sure it does.

Q Have you been active at all, at least up until the time you went to work for the Civil Rights Commission, in politics in East Austin and in Travis County?

A Yes, I was up until the time I went to work for Civil Rights.

Q Were you active, for example, in the campaign

of Mrs. Delco for the school board?

A That's correct.

Q Have you been politically active in Travis County?

A Yes.

Q Based on your experience and observations in your political activities, to what extent have blacks in Austin participated in the political processes in this county?

A Except for voting to some extent, and not enough of that except in the Presidential election, the black voter turnout is very low, but except for that, I really don't see much of a role that blacks have had with the exception of the Delco campaign where we had a great deal to do with choosing her to run for the school board, but other than that, blacks have had very little to do with the selection of candidates. I think that is the main point, and usually the first time much of the black leadership -- I think most of them would agree that the first time they hear about decisions being made, I guess, in a smoke-filled room, is many times from black waiters who work in clubs, who are usually pretty well-educated people. People just talk around them freely, and many times that's the first time we hear about who let's say the Democratic party intends to push for the Legislature, push for a judgeship

and things like that, so we really don't have beyond voting and beyond politicians coming and asking blacks to help push, to campaign for them, we really don't have much of a role.

Q Stuart Long, since you mentioned the Delco race, Stuart Long testified yesterday, and he attributed Mrs. Delco's victory in a large measure to the fact that the election came immediately after the assassination of Martin Luther King. Is that your opinion also?

A That's right.

Q But for that event, you think she would not been successful?

A I don't think she would have won, had it not been for that.

Q One of the aspects we talked about the other day was in relating to the Legislature. As you see it, over the period of time you have been here, has the Travis County legislative delegation been -- or how has it performed with respect to the needs of the black community and the particularized needs of the black community, well, poorly, how?

A I don't think that the delegation meets the need of the black community. I don't know to what extent it is a deliberate exclusion on the part of all of them, but most blacks don't even expect white members of the Legislature

who represent the entire community where you have about 12 or 13 percent black to really get out and push legislation or create legislation that is needed by the black community. Most blacks will talk to Representative Ragsdale who used to live in Austin -- I don't think he is a native of Austin, but he lived here for quite some time.

Q He is a black legislator from Dallas County.

A That's correct. They'll talk to him about legislation they need or give him ideas about things that are needed in the black community. One of the reasons is because he is around in the black places, you know, with the black clubs and the bars and places where black people meet. He's around those areas---.

Q Not having a drink, of course, just in there socially.

(LAUGHTER)

A So, you know, people will rap with him about the needs of the community, rather than calling up a delegation from this county to talk to them about what is needed.

Another thing, I really don't think -- it is pretty hard for a white member of the Legislature, white member of the delegation, to really get information that he or she really needs. For example, a big problem, I think, in Austin, Houston and most of the other cities in the state is the difficulty of ex-inmates, and because of

the ex---.

Q You mean prison?

A Because of the distrust that they have of whites in many instances, they aren't willing to talk, whereas, a black can get a great deal of information about the way he sees changes that need to be brought about in the penal system. It's a matter of trust to some extent. It might not always be warranted, but it is there whether it should be or not.

Q We talked a little bit the other day about the role of the lobby in the Texas legislative process. So far as you are aware, are there any black lobbyists functioning down here in the Texas Legislature?

A I don't know of any. I'm sure there aren't any.

Q Would you attribute in part the lack of performance on the part of the Travis County legislative delgation in any measure to the fact that the black community has no leverage on the delegation to speak of?

A That's true. See, the way it is worked in some cases, when the choices aren't very clear, well, many times many people who are running for public office will, at least many black people think -- I'll put it like that -- put money in the hands of a few people to run the campaign and to hire people to work for them, and it doesn't make

very much difference who wins. Therefore, the person who is able to buy the most workers---.

Q In the black community?

A ---in the black community will get the votes. Now, I think an important thing, the reason many blacks don't have leverage on politics, for one thing, politicians won't ask blacks for his money. I don't know of very many cases where they have. This is the one thing that most politicians do not ask anyone in the black community for, money to help finance a campaign. I think that is very important. Well, the way it works in this country and in most countries is that if you have money in something, you have a stake in it, and I think people, politicians, are more inclined to pay their debts to people who have contributed a great deal of money to their campaign off much quicker than they are to pay their debts to people who have given other type of input.

So this is one area that blacks don't have any leverage, not so much because blacks wouldn't contribute money, but for some reason politicians never ask blacks for money. For one thing, they think they don't have any, and the second reason they don't ask them for is that maybe they would rather not have any money from the black community, because the demands might be a little more intense.

Q Have you observed the continued use in Travis

[330]

County of racial campaign tactics from time to time to defeat a Mexican-American or a Mexican-American favored candidate or a black candidate or a black favored candidate?

A Yes, I have especially seen this with regard -- you haven't had many black candidates, first thing, but I can remember vividly the candidate, Gonzalo Barrientos, when he ran.

Q Let me approach you, and I'm going to hand you what is in evidence as Moreno Exhibit 25. Is that correct?

A Yes.

Q Is the number 25?

A Yes.

Q You had reference to the campaign of Gonzalo Barrientos for the Legislature here in 1972, did you not?

A That's correct.

Q I have handed you there what is a transcription of the television tape used by his opponent just before the election. I ask you to glance through it and see if you recall hearing that and seeing that on television here during that election?

A That's the same statement that I heard. I hadn't read it, but it's the same.

Q Then in your view -- this is one, as I recall, in which the opponent utterly out of context attempted to

[331]

link Gonzalo Barrientos with a statement by some relatively radical Mexican-American talking about squashing Gringos like a bug. Is that the tape?

A That's correct.

Q That is what you consider to be a specious campaign tactic?

A There's no question about it. I mean it's the timing of it. All of this had a great deal to do with it too. It appeared Barrientos was about to win the race, and it definitely appealed to prejudice against, in this case, the Mexican-Americans.

Q Barrientos was defeated. Is that right?

A He was defeated.

Q Did he receive substantial support in the black and Mexican-American communities of Travis County in his race?

A Yes, he received a great deal of support in both, probably up to 95 percent of the votes in the black and Mexican-American community, and probably this statement encouraged a greater turnout on the part of blacks and Mexican-Americans because of resentment of this type tactics.

Q But it still was not adequate -- that turnout was not adequate---.

A It produced a great deal more turnout in the rest of the community too.

Q What about the financial implications, as you see it, for the at-large legislative district for an aspiring candidate out of East Austin if he chose to run for the Legislature?

A Well, I think it is almost impossible for a black to get the money, if they spend it at the rate that they have been spending it, to run a campaign for the Legislature. This is for several reasons. One of the reasons is that the institutions in the black community don't reach out of the black community to a large extent, and the institutions in the white community---.

MR. BLACK: Your Honor, may I get this statement to be reading while he's testifying?

MR. RICHARDS: Sure.

A The institutions in the white community aren't available to the black community. I mean the places where you meet people that enable you to get money, blacks just aren't in those places. It takes a tremendous amount of money to run a county-wide or district-wide race. It's just not there for the blacks. Secondly, if a black is a very popular black within his own community, the chances are if he is willing to accept the terms much of the white community wants to give him, wants him to run on, then he'll turn his own community off, so it's just an impossible thing. Either you go this way or that way (indicating).

I think Mr. Tommie Wyatt, who ran for County Commissioner, has some information. Although this was not county-wide, on that type of thing, so a good black candidate who has the confidence of the black community is not able to get money from the total community, because he cannot accept the terms the total community wants him to run on to a large extent, and if he accepts those terms, he's going to be doing things the black community is not willing to accept him on, so it's almost impossible.

JUDGE JUSTICE: You're speaking rather in the abstract here. What kind of terms are you referring to?

THE WITNESS: Well, I mean in order be popular within the black community, there are certain things that you just have to push pretty hard for in the area of civil rights issues and things of that nature, for example, the local President of the N.A.A.C.P. who pushes hard for civil rights. If he wanted to run for political office, he would get 100 percent in the black community, but if the larger community would tell him, "In order to get the money you need to run, you will have to soften up on this, or soften up on that, because---."

JUDGE JUSTICE: Civil rights, specifically?

THE WITNESS: Some areas of civil rights, yes, and it is a dilemma, and it's almost impossible.

Q Do you find this question of single-member legislative districts is a matter of importance in the minds of black citizens in Texas and Austin?

A I think it is extremely important, because of the desire for representation that is closer to the community and closer to the people, and they feel it is a good chance of getting more blacks from their districts into the Legislature and, consequently, they will have better representation in the Legislature. It's extremely important to the blacks.

Q Well, what happens is---. Do you see what happens to black issues or issues whether spoken for by black or white in the at-large district?

A As I said earlier, I think the black issues are lost, because they aren't ever developed or created, in the first place. This is a big problem, the fact that since you have single-member districts in some cities, and you have about eight, I think, black members of the Legislature, you have really had some black issues developed, because the black members of the Legislature see this as their big job. I mean they are representing their district. They have got to do some research and find out, "How do we

get to the solution of this problem? This is a problem that affects the people of my district," and just luckily for the rest of us who live in the State of Texas, it affects us in many cases also, such as state employment. I mean the black members of the Legislature really got down and dug into this, because this was a black issue no one else has been heard in the past to show a great deal of interest in it, because the blacks and the Mexican-Americans were the ones who were getting the short end of the stick on state employment, and I have a feeling that there are numerous other problems that could be solved if someone really had the interest to get down and dig and look into the statutes, statutes that need to be developed, to find solutions to many of the problems on the state level.

MR. RICHARDS: That's all the questions we have.

JUDGE GOLDBERG: Mr. George?

MR. GEORGE: I'm Jim George, for the Republican Plaintiffs.

CROSS-EXAMINATION

BY MR. GEORGE:

Q Mr. Miles, following up two things that Mr. Richards brought up, you mentioned that during this last legislative session black legislators raised the issue of discrimination by state governmental agencies on the basis of race. Had that issue ever been raised by the legislative delegation of Travis County prior -- has it ever been raised by the delegation from Travis County?

A I'm not sure, you know, about the Travis County delegation. It has been talked about some before, but I mean for the first time someone really got down, rather than just talk, they got down and started digging.

Q And conducted a legislative investigation to find out how many black employees were in state government?

A Started asking questions to agencies, agency heads, as to why they weren't doing anything about it for the first time.

Q Got reports back and that kind of thing?

A Right.

Q Used the office of a Representative---.

A Followed up on it for the first time, rather

than just talk about it.

Q I suspect that state employment is of particularly important concern to the residents of Travis County.

A Very important.

Q To the black residents, as well. It's one of the major employers.

A Right.

Q And is not state employment issues generally, the level of state pay, et cetera, an issue which the Travis County delegation speaks to?

A That's correct.

Q But they have never spoken to the particular black aspect of state employment, have they?

A When you say spoken to, not with the intensity that the black delegation spoke to it. They really haven't shown any interest in really getting down to the solution of the problem.

Q The second area that I would like to talk about---. Were you in the courtroom when Mr. Reyes was testifying?

A At the end of it, I think.

Q Quite briefly, he testified that he was elected by being a member of the churches in his single-member district and being a member of the civic clubs, having

gone to school there and knowing the people there, because he grew up there.

A Right.

Q And I believe you testified the black population of Travis County is approximately 12 percent.

A I think it is 12 or 13 percent.

Q Would a young or old, I suppose, black person who grew up in Travis County and would have gone to school with black persons, would he not, here?

A If he is my age.

Q Would he belong to churches here that were predominantly black and civic clubs and known that community well?

A That's right.

Q And they would have known him?

A That's right.

Q Would he have had that kind of access to the majority community, however?

A No.

Q Could he have been known by the majority white community?

A Well, he could have, but the chances are that he wouldn't have been known.

Q So a twenty-year old, twenty-five-year-old, thirty-year-old businessman or someone seeking a

political career from the black community could not have gone out and belonged to the white Lions Club, the white churches, where the majority vote is.

A Yes.

Q He would have to be known by those communities to be elected, wouldn't he?

A That's right, no question.

Q But in a multi-member district a black person in a segregated society doesn't have that kind of access to the lines to becoming known and the lines to political careers.

A No, it's just not there.

MR. GEORGE: That's all I have.

MR. KORBEL: George Korbel for the Plaintiffs Moreno et al.

CROSS-EXAMINATION

BY MR. KORBEL:

Q First of all, I would like to ask you whether or not with respect to Mexican-Americans in Travis County, I suppose they likewise have racially or ethnically identifiable organizations that they belong to. Is that correct?

A That's right.

Q And they for the most part do not belong to the downtown-type organizations. Is that correct?

A That's correct.

Q So they would have the same problems with these lines of communication.

A Same problems.

Q Now, in your position with the Commission on Civil Rights do you receive complaints about discriminations state-wide?

A Yes, first, we do receive quite a few complaints. We aren't a complaint-handling agency, but most people think we are because of the name of the agency. We receive them, and sometimes we investigate them, but for the most part we refer them to the agency that is responsible for enforcing those -- that specific law.

Q Do you still find complaints about discrimination in public facilities throughout the State of Texas against Mexican-Americans and blacks?

A Yes.

Q Do you still have complaints about elections by Mexican-Americans and blacks throughout the State of Texas?

A Most in South Texas and East Texas and in some parts of West Texas.

Q Now, when you drove -- Mr. Richards referred

to your driving through the St. Johns areas and the Charleston (sic) area, was that with Mr. Richards, myself and Dr. Cotrell?

A That's right.

Q Did you assist in explaining the city of Austin to Dr. Cotrell so he would understand your point of view?

A I did.

MR. KORBEL: I have nothing further.

MR. CRAWFORD: Phillip Crawford, Chapman et al.

CROSS-EXAMINATION

BY MR. CRAWFORD:

Q Mr. Miles, you testified earlier that you formerly taught in the Austin public schools.

A That's correct.

Q What subjects did you teach?

A I taught World Geography and Social Studies and Civics in the high school.

Q You taught Civics. Would you tell the Court what, if any, difficulty you might have had in trying to motivate the students in this area of Civics.

A Well, this was a high school class in Civics, seniors in high school, and they really have a great deal of interest in National politics, National affairs. I can't remember -- it was a pretty good while ago, but I don't even remember that they paid -- they paid very little attention to State government. They felt that even though it was only about eight blocks away from the school or a little more, they looked upon the State government, the capitol, as being much further away than Washington in terms of getting something done, and some of the reasons is that the State government at that time and to a large extent now was just not responsive to the black community. They looked upon the National government as being the place where we were going to get some redress, and that was during the time that President Kennedy was President, and we had a great deal of interest on the part of black students in National politics and National government in terms of doing something about the problems that existed during that time. That was from '60 to '65. That's about as much as I could say.

You know, there's a great deal of difficulty just motivating period when you're teaching a school that is located in what we would term a ghetto community.

Q Mr. Miles, you also testified that you served as the Executive Director of the Austin Human Relations

Council. Do you recall the history of the ordinance which established that council?

A I remember something about it. I know it was a great battle. I was teaching -- working at the Gary Job Corps during most of the battle trying to get it established. I know there was a great deal of controversy and battling around, trying to get it established. A lot of people didn't want it, and finally, I think, they finally got it through the City Council some kind of way.

Q Do you recall whether or not the version which was enacted had teeth or if it had any powers, or whether or not it was a watered-down version?

A Oh, it was watered down a great deal. I think a professor at the University had written one up that was very strong, and all the teeth were taken out of it by the time they got it established. I do know this, that when I was working with the Commission, that it was very weak. I don't know the whole history of how it got so weak, but it was extremely weak when I was working with it. I do know that.

Q Now, Mr. Miles, you also testified with reference to physical barriers. In your experience in the city of Austin has it been called to your attention that possibly one of the reasons that Clarksville, St. Johns, South Austin and Montopolis was not developed might well

have been because of an inability to secure the financing, and it was denied on possibly a racial basis?

A Oh, you know, that's part of the reason -- that's what I meant when I said they -- I guess I should have said what I meant by "they." They just let it stay there, hoping that it would eventually die.

JUDGE JUSTICE: Are you referring to the city officials?

A That's the point I am going to make. When I said "they," I mean the city officials and what I would call the power structure of the city, people with the money. In other words, most city officials don't really have much money, but some bank or some finance company, some mortgage company is going to have to finance redevelopment, you see, and then these financial institutions, along with the public officials, saw to it that nothing was ever done about St. Johns, Clarksville or Montopolis, so I think it was a combination of city officials, along with the people who controlled the money in the city, in combating the development of these projects.

Q One further question. Mr. Miles, on the basis of the education pattern, the physical barriers and the history of the Human Relations Council, would you be of the opinion that the lethargy, the apathy and the lack of concern for politics within the black community lies on

the basis of the discrimination that you have described in a great degree?

A Yeah, to a tremendous extent. I think all of it is very -- another area is -- I guess one example is the difference in the number of blacks that you can get to vote in the Presidential election and the number that you can get to vote in a state or local election. I mean I don't know the figures, but there is a tremendous upsurge in the number of blacks who vote let's say in the 1976 election and the number that will vote in 1974. One of the reasons is that blacks look upon the Federal government to some extent as being responsive to their needs as far away as it is, but as far as State government is concerned they don't see it as being responsive.

MR. CRAWFORD: Pass the witness.

JUDGE GOLDBERG: Any other group on the right?

MR. RICHARDS: I believe that's all from this table.

JUDGE JUSTICE: Is there cross-examination?

MR. BLACK: I'm Tom Black for the Defendants.

CROSS-EXAMINATION

BY MR. BLACK:

Q Mr. Miles, I just have a very few questions. First, on these little pocketed black areas that you have talked about, Clarksville and St. Johns, and the failure to repair them, do you know of any attempts on the part of the residents of that area, on the part of anybody, as far as that goes, to obtain repairs or help for these people?

A Oh, there has been a tremendous amount of effort on the part of the residents of St. Johns. They have had all kinds of civic organizations. I don't know the name of any of them, but I know some of the people that have been working with them and in them, and the same is true for Clarksville. There has been a tremendous amount of effort through the years on the part of the people of Clarksville, Montopolis and St. Johns to get something done about the situation.

Q They have just been ignored? Is that your testimony?

A Well, they have been given some lip service about things that's going to be done, but nothing has ever been done, and I think, as I pointed out earlier, I think it was just calculated to bide time. I think at one time

they were talking about urban renewal. It seemed that that would have been an ideal place for urban renewal if there had ever been one, but for some reason it never got through, they were ignored, and then there was some legislation in the city government that voided certain things, such as a paving ordinance that said that you can't get anything paved unless you have, I think, over 50 percent of the people on the petition, and then if they got the 50 percent of the people on the petition, they said the streets weren't wide enough, that there was no way to pave the streets. They either had to move all the houses back, and the houses were in a shape that they couldn't be moved. All those type of little very complicated things and a strict enforcement of regulations, those type things.

Q Well, I'm afraid I didn't understand what you feel is the objective of these people who are preventing improvement of these districts. Are they trying to make these people move into East Austin, or what is the objective?

A Well, I couldn't say they're trying to make them move into East Austin, but I will say -- I'll just say it like this---. Many people, if there are $100,000.00 houses on one corner, and then on the next corner you have places that are totally dilapidated and unpaved, and then you have a $5,000.00 house, and it's a real sore spot, and someone comes to your house. They drive down the street,

and they see all this, and you're one of the leadership in the community, it's a tremendous reflection on you, and at one time I understand that Clarksville was there because the blacks who lived in Clarksville served as maids and so forth, because the transportation was kind of difficult, you know, during those days, and they were there because they could walk to work from Clarksville over to the people who live say in the $100,000.00 houses right down the street. There's no longer a need for that, because, you know, the maids have cars too now, so they can just as easily live in East Austin and catch a bus or drive their car back and forth to work.

Q Well, just getting down to specifics, can you name me one $100,000.00 house that is within a block of Clarksville?

A I can't name one, no.

Q All right, sir, there's not any, are there?

A I'm not sure. Well, let's say eight blocks of Clarksville. I could probably name quite a few.

Q Well, in perhaps eight blocks you could, but I wanted to be sure---.

A Yes, I may have exaggerated a little in saying a block, but eight blocks would be accurate, I think.

Q But your testimony that they were right next to each other---.

A Well, I would consider eight blocks as right

next to something.

Q Now, the leadership that you talked about in the black community that no one knows about, who are some of those people, Mr. Miles?

A Well, you want me to give you the names of some people?

Q If you would, please.

A Yeah, some people who have tremendous influence on the black people that probably many whites don't know about, there's Dr. Bale at Huston-Tillotson College, Dr. Urdy over at Huston-Tillotson College. A barber named George Walker has a tremendous amount of influence, also a fireman named Ray Davis. Some of these people grew up in East Austin, and the way they feel has a great deal to do with the way other blacks will vote, and I have a feeling that there is a great deal of the -- I don't know if I can consider myself a leader, but there is a great deal of the power structure that don't know anything about me.

Q All right, sir. Of course, you participated actively in city politics in connection with this Human Relations Commission, did you not?

A Well, when you say city politics---.

Q Well, I mean you were identified with the city. The city generally knew who you were, I presume.

A I think so, yes.

Q Now, Mr. Miles, a little bit more about this participation of the blacks in state and local politics. Approximately what is the percentage of the registered black voters that vote in the legislative races? Do you know?

A I sure don't. It's probably about 40 percent, maybe a little more or less. That's strictly a guess.

Q And do you know what the white participation is? It's about the same thing, isn't it?

A I don't know.

Q 40 percent is a pretty good participation. I mean it's not anything to brag about, but---.

A I was guessing. I assumed you wanted me to guess. You might give 20 or take 20.

(LAUGHTER)

Q Let me ask you this, Mr. Miles. This business about greater participation in presidential elections, that's true of everybody, isn't it, whites, blacks, Mexican-Americans? Everybody in all areas get out and vote more when you're voting for the President than they do when you're voting for members of the State Legislature.

A That's probably true, I would imagine, but not just the voting, but I'm thinking in terms of the interest and conversation about it, and I'm sure that's true in the rest of the community too, but I know it's true in the black community.

Q These people that you say are sitting in smoke-filled rooms deciding who is going to run for the Legislature from this area, do you know, for instance, did they choose Sarah Weddington?

A I'm not sure. I never did get the details from the people who were talking about it.

Q Well, you really don't know that that happens or that exists or anything about it, do you, Mr. Miles?

A I don't know that for myself, but I know people have said it happened. You see, I haven't been a waiter, and it's the waiters who talk about it. People have told me it exists.

Q The waiters have told you it exists?

A That's right, that they have heard it.

Q Now, you say that most of the people in your community go to Ragsdale from Dallas, rather than to the present delegation. Is it your feeling that, for instance, Mr. Bales, who testified yesterday, is not responsive to the black community in Travis County?

A Well, let me clarify what I said about Mr. Ragsdale. Maybe I should have said that Ragsdale comes to them, because Ragsdale lived in this community for years, and Rangsdale is always over in East Austin. He knows a lot of people there, and they will sit down and rap with Ragsdale to the extent that they would not sit down and rap with

Larry Bales. I'll say that.

Q Right, and the primary issue that you named that is a state issue in which blacks have a primary issue -- I believe you mentioned fair employment in State government.

A That's one. You know, that's one of the things that bothers me about, you know, the whole situation is the fact that for some reason many of the issues that I have a feeling should be developed with regard to blacks are not developed---.

Q Somebody coughed, and I didn't hear what you said.

A I say that's one very important -- I'm not sure -- I would personally consider it probably the most important area as far as Travis County, but that's one of the things that bothers me. I have a feeling there's a lot more problems that the black community have that the State government could do something about if someone would really get down and research it and try to determine what can the state do about freeways running through places like Clarksville. Maybe nothing, but maybe they can. What can the state do about unpaved streets? Maybe they can't do anything, and maybe they can, you know. I have a feeling that numerous things the state can do something about to lift the burden of the black communities, bu^ they haven't done

anything about it, because no one really gets down there and digs and tries to see it. It just so happens that those eight black members of the Legislature have raised this issue as one area that they can help with. Maybe we need more of that. I'm not sure what all the state can do myself. I'm not that familiar with state government to know what the state can do about some of these immediate problems that the black people have.

Q So it would not be hopeless in this community then for a black to run for the Legislature.

A Oh, not to run, no.

Q Well, I mean to win.

(LAUGHTER)

A I think it would be almost hopeless for a black to win if you take this criteria that the Judge asked me about earlier when he questioned me about -- not criteria he asked me about, but I was explaining to him and the rest of you about the conflict that a black -- I think it would be almost impossible for a black who almost totally had the confidence of the black community to keep that confidence and win at large for several reasons. No. 1, he wouldn't be able to raise the money. No. 2, if he is a real man, he wouldn't compromise himself on the issues when he starts campaigning, and he's going to have to do it if he intends to win city-wide, I think. Those are two very important

reasons that I don't think a black could win.

Q Mr. Miles, I don't want to be argumentative with you, but what you're really saying is that the kind of black that you would like to see win---.

A That I feel most blacks would like to win, a black who is really going to address himself to the issues that involve black people.

Q But we do have two blacks that have been elected, one to city government and one to the School Board.

A That's correct.

Q Who were elected by roughly the same electorate who elects the Legislature.

A O. K.

Q Possibly you don't agree with Mr. Handcox, but is a black, is he not?

A Yes, he's black.

Q And Mrs. Delco is a black, is she not?

A That's correct.

Q And both of them were elected.

A That's right, but Mrs. Delco, as we pointed out earlier, was elected the day after Martin Luther King was assassinated.

Q Well, has she had to run again?

A No, her term is up this next year. I don't know whether she will run again or not. I think that was

very important. I don't think that should be taken lightly, the fact that she was elected the day after Martin Luther King was assassinated, because I think that had a great deal of influence on her winning. Otherwise, I don't think she would have won, because she did address herself to the problems that we're talking about.

Q Well, be that as it may, I'm not minimizing that, Mr. Miles.

A No, sir, I know you wouldn't personally, but it was an issue. Now, Burl Handcox does not live in the black community, and Burl Handcox did win on a slate that was pushed and financed and everything by people from the majority community. Now, if a black would get on a slate and run like that with the people that the people with the money want to push, now, that's one way a black that don't have access to the other community can get access to them, but this is not necessarily -- this is the very thing that I am talking about. To a large extent Burl Handcox probably does not completely represent the best interests of the black community, and he was on a slate with this establishment that I'm talking about, and if you are on a slate like that you can win, but if you are running on behalf of the black community and you're going to represent the black community without compromise, then I think this is a different case.

MR. BLACK: All right, sir. I believe that's all the questions I have.

JUDGE GOLDBERG: Anthing from here?

MR. RICHARDS: No redirect, Your Honor.

JUDGE GOLDBERG: Do you have anything?

JUDGE JUSTICE: Yes, I wanted to ask some questions.

EXAMINATION

BY JUDGE JUSTICE:

Q Do you follow what the legislators or the members of the House of Representatives from Travis County do in the Legislature? Are you generally acquainted with some of the bills they introduce and that kind of things?

A Well, I don't follow it probably as close as I should. Now, I am familiar with some of the things.

Q Let me ask you this. Are you aware of any bill being introduced by any member of the legislative delegation from Travis County which related to the fair employment practices by the state government?

A I think I remember a bill related to that introduced. I'm not sure that it was introduced by a member of the Travis County delegation.

Q Well, that's what I am asking, specifically by the members of the Travis County delegation.

A I don't recall any.

Q You think there would have been publicity about it had it been introduced?

A I think it would.

Q Do you recall any bills being introduced by any member of the Travis County delegation relating to fair housing practices or non-discriminatory housing practices?

A No, I'm almost sure about that.

Q Do you think there would have been publicity about it had there been such a bill introduced by some member of this delegation, the Travis County delegation?

A There would have been.

Q Do you recall any type of bills introduced by the Travis County delegation relating to non-discriminatory education?

A No, not by the delegation.

Q Or to civil rights?

A No.

Q You feel that in either of those instances there would have been publicity attendant to the introduction of such a bill?

A Yes.

Q And you heard of none.

A I haven't heard of one.

JUDGE JUSTICE: All right, thank you.

EXAMINATION

BY JUDGE WOOD:

Q Mr. Miles, as a political student, you will have to concede -- I think you have -- that slates of so-called establishment tickets do help candidates and help them run as a group. Is that right, on the ticket?

A That's right.

Q For financing and lobbying. Is that right? Isn't it a fact that these slates or establishment tickets also help candidates whether they are formed in single or multi-member districts? I'm talking about your investigation in Houston, Dallas and San Antonio. Don't those slates help those candidates.

A I guess they could, you know, but if there are single-member districts, the person that they select on that slate, they would have to deal with their district. In other words, they couldn't just get anyone and impose that person upon that community if they're a single-member district. They would have to get someone that would be able to win in that district, whereas, as it is structured now

with multi-member districts, they could get someone that they would be able to put a good public relations man on, and he would be able to win city-wide.

Q Aren't you willing to say, though, that with reference to Houston, Dallas and San Antonio that slates have been elected in both those counties based upon tickets put out by the so-called establishment, or do you know?

A Well, frankly, as far as San Antonio -- again, it gets to the definition of a slate, see, because if it is a group getting together to push certain candidates financially, and it's just a group that they feel that they can get together without compromising, like in San Antonio there are groups from all parts of the city that put out cards and things that had G. J. Sutton's name. It was just a matter of cheapness in getting things printed, but the establishment did not select G. J. Sutton to run for the Legislature. That community selected G. J. Sutton. I mean the black community. That's who the black community wanted to run, or that community, not all black, wanted G. J. Sutton to run.

Q You don't think there is any advantage to having a ticket in a single-member district?

A Any advantage to---?

Q To having a ticket or slate in single-member districts in San Antonio, Dallas or Houston.

A Well, you know, except that it costs less to print one card with several people's names on it.

Q Let me put it negatively. Do you have a disadvantage if you're not on that slate? When you're running against somebody in a single-member district that is endorsed by that ticket? Is that person at a disadvantage financially or otherwise?

A If he is not the person that was selected by that community to run.

JUDGE WOOD: O. K., that's all.

EXAMINATION

BY JUDGE GOLDBERG:

Q Mr. Miles, in the most recent session of the Legislature there were single-member districts in Harris, Dallas and Bexar County. There were multi-member districts from Tarrant, Nueces and El Paso. Tell me, if you know, whether or not the legislators representing the single-member districts, were more responsive to the wishes, the needs and the political requirements of the black community than those legislators who were elected from multi-member districts.

A There's some question in my mind that they

were more responsive.

JUDGE JUSTICE: Which was more responsive?

A The single-member district counties. I can think of one very good example in the city of San Antonio where G. J. Sutton represents a single-member district, and he raised an issue with regard to the location of a state office building, an issue that would have never been raised, whether or not it should be located in East San Antonio, the predominantly black part of San Antonio, or whether it should be located over on Broadway. That issue would have never been raised if G. J. Sutton had not been representing that district, because the thought would have never come across any person's mind to place that state office building over in East San Antonio.

JUDGE WOOD: What about the other twelve members that were elected from San Antonio besides Mr. G. J. Sutton? Were they more responsive?

A Right, that's one of the points I'm making. The member of the Legislature that lived in the area where he wanted it located pushed for that. I think they got deadlocked, but I think that's the way it is supposed to work. I mean they didn't get it either place, I don't think, but still G. J. Sutton raised the issue that wouldn't have ever been raised of putting the state office building in East San Antonio unless G. J. Sutton had been in the

Legislature. There are numerous examples of that. There's no question about.

JUDGE GOLDBERG: The Court will take a fifteen-minute recess. Let's speed up our driving speed, if we can.

(REPORTER'S NOTE: The Court then, at 10:40 o'clock, A. M., December 4, 1973, recessed until 10:55 o'clock, A. M., the same date, at which time it was reconvened.)

JUDGE GOLDBERG: Be seated. Well, are we on the outer fringes of Travis County, or where are we?

MR. CRAWFORD: Your Honor, we hope to move back into the contiguous and homogeneous East Austin area very briefly, and we would like at this time to call Volmar Overton. Mr. Overton?

VOLMAR OVERTON,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR.CRAWFORD:

Q Will you state your name for the record?
A My name is Volmar Overton.
Q And you live here in Austin?
A Yes, I do.
Q How long have you lived here in Austin?
A I have lived in Travis County all my life.
Q But in Austin proper, how long have you lived?
A Thirty-five years.
Q How old are you, Mr. Overton?
A Forty-nine.
Q Mr. Overton, what type of employment are you in?
A I am employed by the federal government, United States Post Office.
Q What clubs or organizations do you belong to?

A Well, I am a member of the N.A.A.C.P. in Austin.

Q Any other organization?

A Other social and civic organizations.

Q Are you a member of a fraternity?

A Yes, I am.

Q What is that fraternity?

A Alpha Phi Alpha fraternity.

Q Is that an integrated fraternity?

A Yes, it is an integrated organization.

Q What is its history? Was it a predominately black institution?

A No, it's predominately black. It has recently become an integrated organization, but originally it started as a black organization.

Q Mr. Overton, you indicated you are a member of the N.A.A.C.P. Do you hold an office in that organization?

A Yes, I am President of the Austin Branch.

Q How long have you held that office?

A Twelve years.

Q Now, during the time you have held that office, has that group been interested in voter registration?

A Yes, we are. Each year we have been active in voter registration, because we have a committee that

actively registers people to vote.

Q But in addition to attempting to get the people to register, you also seek to get them to go to the polls and vote. Is that correct?

A Yes.

Q What results have you had in these two areas, getting them to register and, secondly, getting them to the polls to vote?

A Well, for the energy put out to get them to register and to get them out to vote, I'll say it is very hard and very difficult to get the black community to the polls to vote.

Q To what do you attribute that?

A Well, most of the comments that come from the black communities are, "They're going to do what they want to do anyway. We have no participation in this. What does it matter? You know, the white community is going to do what they want to do anyway."

Q Have you as President of the Austin Council of the N.A.A.C.P., have you ever been approached by any legislator of Travis County, Texas, to ask you what the needs of the black community might be and how they might help?

A Usually this is kind of a campaign to come out, you know, when they're running for office. This is

the only time, I would say,

Q This is prior to an election?

A Prior to an election.

Q After the elections, do you ever hear from any of these individuals?

A No, I don't.

Q Have you ever attempted to approach any of them and indicate the needs of the community?

A Yes, we have.

Q Has there been any results?

A No, we never had anything that we have actively advocated to be passed on by the Legislature.

Q Mr. Overton, in your individual capacity and as an officer of the N.A.A.C.P., have you taken an active role in attempting to get some adjustments made in the employment pattern of state government here in Travis County?

A Yes, we have.

Q Have you had any success?

A No.

Q Trying to pursue this, have you consulted with any state official or representative?

A Yes, we have.

Q Who would be these persons?

A Our State Representatives.

Q The local?

A Yes.

Q Have you also consulted representatives from other districts outside Travis County?

A Yes, we have.

Q Have they been receptive?

A Yes, the person that we have contacted was in regard to a state-wide bill, and this person was very receptive to get this before the Legislature.

Q This individual, what ethnic group did he belong to?

A Black.

Q Mr. Overton, within the organization is there some type of philosophy that you feel or that the organization feels would help to motivate the populace of East Austin insofar as -- just what do you expect your legislator to do?

A Well, I would expect him to be responsive to the voters of our community, and I would expect that, you know, when they appealed to them that some response would be given and not only just before an election that they would come around to get something to win votes, and I would expect that the people in the black community or the minorities to feel that they have a real share in shaping the community by, you know, representatives having a real share in the things that are done by the community.

Q Mr. Overton, do you know roughtly the percentage of blacks in Travis County?

A Roughly, I believe it is about 12 percent.

Q Do you know the percentage of blacks which are presently employed by the state government?

A I believe it is 2 percent.

JUDGE JUSTICE: Are you speaking about Travis County?

Q The state government and its offices within Travis County.

A I would say less than 2 percent.

Q What levels of employment are these persons in?

A They are in the custodial, janitor or maintenance departments, maintenance or garage type.

Q Now, you indicated earlier that you had made some contact with the representatives of Travis County. Do you think that this would be an area of concern for them?

A I'm sure it would be.

Q Do you think that they should be a moving force in attempting to eradicate or to change this condition?

A Well, I would like to think that they would be a moving force, but generally politicians--I mean people would tend to move according to what they feel would be their voting strength and certainly they wouldn't take

an active part.

Q Do you have a theory possibly as to why the Travis County delegation has done nothing in this area?

A Well, generally, most candidates in our community that have perhaps advocated this kind of thing would be defeated the next time around, so most politicians wouldn't advocate anything.

Q Yet, the black community would represent something like 12 percent of the population?

A That is correct.

Q Now, there has been some earlier testimony, Mr. Overton, and let me, if I can, preface my question with this and, that is, that some persons of black origin, when they become involved in politics, they face reprisals, of some sort. In your work have you ever had aspirations of getting involved in politics?

A Yes, I at one time had indicated I wanted to run for the City Council.

Q Do you know about when that was, Mr. Overton?

A Oh, I'm sure it has been at least five or six years ago.

Q What happened?

A Well, first I had to get permission from the Postmaster, and the Postmaster indicated he wasn't able to rule on it, so it was sent to Washington to the Postmaster

General to rule whether a government employee could run for public office, and he stated -- I think the letter came back from Washington and stated it would be left up to the discretion of the local Postmaster, and he ruled against me.

Q As a result, you did not run. Is that correct?

A That's correct.

Q Now, since that time, has there been any other thing that would lead you to believe that the fact that you had indicated an intention or a desire to run, that you have been treated differently?

A Well, at this time I don't think because perhaps only the Postmaster knew that I had intentions of running, and he was the one that made the decision I couldn't run, and I felt this was somewhat a prejudiced attitude.

Q To your knowledge, Mr. Overton, here in Travis County have there been other blacks who have had ambitions who have been subjected to any type of tactics?

A Yes, many blacks have attempted to run and, you know, explored opportunities to run and what would be available to them. Consequently, they were, you know, not able to run.

Q Finally, Mr. Overton were the Court to decree or order single-member districts for Travis County,

Texas, would there be any thought on your part or anyone else that these lines should be so drawn so that there would be a guarantee of a minority member being elected to that particular position?

A I don't think there should be a guarantee a minority could be elected, but I think it should be so drawn that the blacks would feel that they have a fair share in electing the person who would be elected to the office.

Q Are you saying then, Mr. Overton, that the person elected should be not only responsible but should be responsive?

A That's right.

Q And the black community should have a part of the action.

A That's right.

MR. CRAWFORD: Pass the witness.

JUDGE GOLDBERG: Next?

MR. RICHARDS: No questions.

CROSS-EXAMINATION

BY MR. BLACK:

Q Mr. Overton, instead of beginning, I want to ask you a little bit about this ruling of the local Postmaster about your running for office. Do you have any reason to believe that this was just you, or was he ruling for whites, blacks and everyone else working for the Post Office?

A I have a strong feeling he was ruling against me.

Q His ruling wasn't that you couldn't run, but that other postal employees could? That wasn't the ruling.

A No, that wasn't the ruling, but the ruling was that I could not. I don't know, but it was left to him to decide.

Q Has he ever allowed a white employee of the Post Office to run for the City Council?

A To my knowledge he has allowed one to run for the School Board.

Q Who is that?

A Mr. Martinez.

Q When did Mr. Martinez run for the School Board?

A The next year or the same year after I attempted to run, six years ago next year would be.

Q Now, when was this you decided to run for the City Council?

A Six years ago, I believe.

Q That would be 1967 or somewhere around there?

A Somewhere in that vicinity.

Q Is it the same Postmaster now that we have or different?

A Not now, but at the time when these two parties decided to run, we had the same Postmaster.

Q Now, that is a problem, of course, Mr. Overton, that you realize the issue in this case is whether we're going to have single-member districts or multi-member districts to the Legislature from Travis County. Your local Postmaster isn't going to change his ruling---.

A No.

Q ---whether it's single-member or multi-member district, is he? That ruling is the same.

A That's right.

Q Now, you say you know a lot of other blacks who have aspired to run for office and had reprisals. Do you know of any specific instances of that, or is it just generally known if a black runs for office---?

A The reprisals was that, you know, "Your job

is in jeopardy," or something like that, or you'll have no funds, these kind of things. They'll put you in jeopardy, suggest you not run.

Q Well, is this just a general feeling, or do you know of specific examples where this has happened?

A Well, I know of specific things where people were not able to, you know, get funds, where they wouldn't be able to get the money, or they changed their mind about running after discussing it with some of the white community.

Q But you don't know of any specific examples of someone being threatened with losing their job or loss of promotion for running for office?

A No.

Q Now, on this business of the voter registration you have worked in, when did they repeal the poll tax in Texas?

A Probably been at least eight or ten years ago, ten years ago.

Q And since that time that's primarily when you had been working on that, is it not?

A Well, we worked on it with the poll tax too.

Q Voter registration, of course, has greatly eased your burden, hasn't it?

A That's right.

Q Now, what percentage of the eligible voters

did you in the black community register to vote this past time, do you know?

A I would think we registered -- we had calls to aid to register in Travis County at least 60 or 70 percent of the blacks.

Q How does that compare with the white community, do you know?

A I would say it is much less percentagewise than the white community.

Q Do you know, or is that just what you would say?

A Well, I'm sure -- I don't have the figures before me, but I have had them discussed, and I have looked at the figures, but off the top of my head I don't know the exact figures.

Q You think the white community registration is over 70 percent, significantly over?

A I wouldn't say not significantly.

Q Of that percentage in the black community do you know what percentage that actually votes in legislative state races?

A It has varied from time to time. Sometimes it is 30 percent, 20 percent or maybe 40 percent, depending on the perhaps candidate in the race.

Q Now, I want to ask you a little bit about this

bill you say you asked for for fair state employment. Did you draw up a bill and give it to someone?

A No, state-wide, our state-wide N.A.A.C.P., we contact our legislators and things like this in support of the bill.

Q Well, was there such a bill introduced in the legislature this time?

A No.

Q And you say you approached somebody. Who?

A I had reference at this particular time to a prison reform resolution. I didn't say employment bill, but I was asked about had I approached the state about legislation.

Q But what you approached them about was prison reform?

A That is correct.

Q Was the bill introduced in the Legislature in accordance with your desires?

A Well, it was really a resolution passed to set up a study reform and this was done.

Q Was that in accordance with what you desired?

A What we wished.

Q Who introduced the resolution?

A The Senator from Galveston. I can't recall his name now.

Q Mr. Schwartz?

A I believe so.

Q Is he the person you approached to talk to about it?

A Yes, I did talk to him. That's correct.

Q Did you talk with the members of the Travis County delegation?

A Yes.

Q Who did you talk to in that delegation?

A I talked to Representative Weddington about it, and I talked to Representative Bales about it.

Q Did you talk to Representative Foreman about it?

A No, I didn't.

Q Let's see. Is there any other -- was Cavness in the Legislature?

A That's right, he was. I didn't talk to him.

Q Did you feel that the two you talked to were responsive to what you were saying about it?

A That's correct.

Q Did they vote for it?

A I didn't keep up with how it passed, but I talked to these two, because I felt they were responsive, and I didn't particularly follow up how it was carried through, and the resolution was passed. I'm not sure---.

Q You don't know whether they voted for it or not?

A No, I know we asked for this resolution, and it was passed.

Q Now, this concern you have about state employment, have you or any of your organizations ever pushed that in the State Legislature, or has any kind of legislation been introduced?

A Well, we have pushed this through a representative, and I know through the black representative in the State House.

Q And who, for example?

A Representative Sutton and the representative from Houston and the representative from Dallas.

Q And was a bill introduced by those gentlemen?

A I'm not sure what was introduced, but I know these were the people that we have consulted and urged to support this kind of thing.

Q Well, Mr. Overton, I don't want to sound argumentative, but if this is important to you, I presume you would know what happened to it in the Legislature. Do you know at all?

A No, I don't right now know.

Q Did you know at one time---?

A Uh-huh.

Q ---or have you forgotten? Well, let me ask you something specific. Did you ever go to our delegation from Travis County and ask or talk to them about this employment situation?

A Yes, I have. I have talked to Representative Weddington about employment, and I talked to Representative Bales about employment.

Q What did they do about it or what did they say?

A They were responsive to it -- you know, this kind of thing, getting more blacks employed.

Q What is the percentage of blacks state-wide?

A State-wide? I would think it's about 12 percent.

Q About 12 percent, the same as it is in Travis County?

A Roughly, yes.

Q Now, you say that all of the blacks employed in the state government are in custodial jobs. Have you really made a study of that, and is that your testimony, Mr. Overton?

A I didn't say all were.

Q I understood you to say all were.

A Well, the majority of blacks, yes, are in custodial employment.

[380]

Q Now, is this based on a study that you have made, or have you---?

A It is based on a study that I have seen, and it came through the Legislative Council, I believe.

MR. RICHARDS: Your Honor, we have an exhibit that is either already admitted or will be reflecting state employment.

Q But there are blacks employed in state government in responsible positions, indeed, in high positions. are there not?

A Few, if any, and very few, I would say.

Q Have you, for instance, investigated the Attorney General's office?

A Yes.

Q Well, you know for a fact---,

A Uh-huh.

Q --- that there are a considerable number of blacks, both serving as lawyers and as secretaries in that office, are there not?

A Yes, but that would be a small minority of the total picture of state employment.

MR. BLACK: I don't have any further questions.

JUDGE GOLDBERG: Anything further? Step down please. How many more live witnesses

[381]

have we got to complete this case?

(WITNESS STANDS ASIDE)

MR. RICHARDS: Let's see, Mr. Crawford has one more. Mr, Korbel has one more.

MR. GEORGE: We have one El Paso witness from everybody, and then our expert, I suppose.

MR. RICHARDS: And I still plan to call Representative Weddington and Ragsdale this afternoon, both very briefly.

JUDGE JUSTICE: What are we speaking of now in live witnesses?

MR. GEORGE: We have the El Paso witness, Mr. Crawford's other Travis County witness, the state-wide expert.

JUDGE GOLDBERG: What about the state? What about live witnesses on your part?

MR. YORK: Your Honor, we will have, I believe, around four.

JUDGE GOLDBERG: Around four.

MR. YORK: We've got one problem. We'll discuss with counsel about putting one on from El Paso out of order today, but it is somewhere around that number.

JUDGE GOLDBERG: Then I'd say about ten live witnesses. How much time do you think

we're going to take on the live witnesses?

MR. RICHARDS: I would anticipate we will complete this afternoon or maybe with a very little over.

MR. GEORGE: We think the expert witness' testimony should begin, which will be our last live witness, should begin today, and if not concluded, should conclude shortly in the morning, and then the state will have its witnesses. We don't have any planned rebuttal.

JUDGE JUSTICE: We were concerned about whether or not to have a night session.

MR. RICHARDS: I would think it will not be necessary, Your Honor. We'll be through by noon tomorrow, I think everybody will be, if that's a reasonable time.

JUDGE GOLDBERG: I assume that a number of you want to be heard from in argument.

MR. RICHARDS: That would be, I suppose, tomorrow afternoon, if that's a reasonable time schedule.

JUDGE GOLDBERG: Well, let's see. Proceed as fast as you can. That's all we can do. Thank you very much.

TOMMIE L. WYATT,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. CRAWFORD:

Q Will you state your name for the record, please?

A Tommie L. Wyatt.

Q How old are you, Mr. Wyatt?

A Thirty-six.

Q You reside in Travis County, Texas.

A Yes, sir.

Q How are you employed?

A I'm self-employed, life insurance salesman.

Q Mr. Wyatt, have you ever had political aspirations, ambitions or experience, and, if so, would you explain all that to the Court, please?

A I was a candidate for County Commissioner for Travis County in 1970 and 1972 also in the Democratic primary.

Q What were the results of those two primaries?

A In the 1970 irmary I was opposed by four other candidates, and I lost the runoff election, and in the 1972 campaign I was opposed by two other candidates, and I didn't make the runoff.

Q As between the first and the second primary, how was your funding? Were you able to get funds?

A Well, the funds were about the same. We were able to raise about $3,500.00.

Q What was the source of those funds?

A They were small contributions of $25.00 or less for the most part, and the rest of them were raised from small dances or private dances, benefit dances, cocktail parties, teas and so forth.

Q Mr. Wyatt, do you think you could run a county-wide race?

A At this time I would not attempt a county-wide race.

Q Why not?

A I think the chance of getting elected are very remote at this time, and I picked the Commissioner's race, because I thought it was one race we might have a remote chance of winning because of the fact that in a county-wide race with only 12 percent of the voters it's awfully difficult for a black to win that type of race.

Q Am I to interpret your testimony then that it is a hopeless and frustrating dilemma?

A It is very frustrating, and at this point most of us consider it almost hopeless, yes.

MR. CRAWFORD: Pass the witness.

MR. RICHARDS: No questions.

JUDGE JUSTICE: For the record, the Commissioner runs in a precinct?

THE WITNESS: A Commissioner runs in the precinct, right.

JUDGE JUSTICE: There is a certain definite boundary?

THE WITNESS: Boundary, right.

JUDGE JUSTICE: How many precincts are there in Travis County?

THE WITNESS: There are four Commissioners' precincts.

JUDGE JUSTICE: Thank you. They are single-member districts?

THE WITNESS: Yes, I guess you could consider it that.

CROSS-EXAMINATION

BY MR. GEORGE:

Q Two very short questions. One to follow up what Judge Justice asked. How many state legislators are there in this district?

A There are four.

Q Four?

A Right.

Q Have there been any candidates to your knowledge, black candidates for the State Legislature in Travis County?

A We had one black candidate that ran for the Legislature last time on the Republican ticket.

Q Republican?

A Right.

Q Have there been any for the Democratic nomination?

A To my knowledge there have been no black candidates for the Democratic ticket.

MR. GEORGE: Thank you.

CROSS-EXAMINATION

BY MR. BLACK:

Q Mr. Wyatt, on this subject of black candidates in Travis County, you ran for County Commissioner, and Mrs. Delco ran for the School Board, and Mr. Handcox ran for the City Council. Can you think of any other black candidates that have run in the last ten or twelve or fifteen years?

A There have been a number of candidates that have run. We've had R. B. Smith who ran for the City Council. We've had -- well, just a number of candidates. Most of them have run for City Council. There have been very few candidates that have run for any other office with the exception of Mrs. Delco. Most of all the other candidates have run for the City Council and, incidentally, they have all gotten beat by fantastic margins except Mr. Handcox.

Q And except Mrs. Delco?

A And except Mrs. Delco.

Q Now, you're running from what the Court pointed out as something that is comparable to a single-member district. Is that right?

A Right.

Q In other words, it's not county-wide, and

EXAMINATION

BY JUDGE WOOD:

Q Who was the City Councilman that was elected?

A Burl Handcox.

Q Mr. Handcox?

A Yes.

Q Well now, is the City Council divided into wards or single members or is it---?

A It's at large.

Q And Mr. Handcox won at large?

A Right.

JUDGE WOOD: That's all.

your community is in this place. Is this precinct one that is where the blacks have a greater percentage than they do county-wide, greater than 12 percent or what?

A In this precinct they would have a greater percentage, but they would still be far in the minority, something like 30 percent of it.

Q Did you get a fairly good vote from the black community in this race?

A About 95 or 96 percent in the black community.

MR. BLACK: That's all the questions I have.

JUDGE GOLDBERG: Step down, please. Next witness, please.

(WITNESS STANDS ASIDE)

LAMAR L. KIRVEN,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. CRAWFORD:

Q Will you state your name for the record?

A Lamar L. Kirven.

Q Mr. Kirven, you live in Austin, Travis County Texas?

A I do.

Q How long have you lived here?

A Eleven years.

Q And where are you employed?

A Huston-Tillotson College.

Q What do you do at that college?

A I am a professor of Government.

Q Mr, Kirven, there has been earlier testimony indicating that there exists a pattern of racial discrimination here in Travis County, Texas. Would you make a comment on that and indicate whether or not that is true or false?

A Well, Travis County, again, like a large portion of the state operates under a legacy of discrimination. They are still far away from the reconstruction governments to the present. Things are better. They are lots better now than they were twenty years ago, but the rules under which the politics in the State of Texas and the County of Travis operate were laid down long before blacks were permitted to participate in the Democratic processes.

Q Dr. Kirven, there is already another record which stipulates discrimination does exist up until at least 1960 within the state. I would like you, if you would, to just comment on what changes, if any, you have seen in Travis County since 1960.

A None to be exact. However, I would like to go back to 1953. Back in '53 we had a man by the name of Dewitty (phonetic), a black man, newspaper man, who ran for the City Council. We ran then by wards, and he ran fifth in the race, and immediately they -- promptly the City Fathers of Austin passed an ordinance whereby you would have to run at large, and that vote was nullified.

We have had some changes since 1960 when the poll tax was repealed or declared invalid by the three-judge Federal Court in 1966. We had an increase in registration of about 50 percent of the blacks and Mexican-Americans.

Q Dr. Kirven, if I might, let's go back to 1953 in the Arthur Dewitty race. Now, you heard the earlier testimony of T. L. Wyatt. Is that correct?

A That's right.

Q He indicated there have been a number of black candidates who sought election to the City Council.

A Behind him came a man by the name of -- well, Wyatt came and then Walker came two years later.

Q At any rate, there were a number of others.

A That's right, in the '50's.

A What do you attribute that to, the fact that Mr. Dewitty ran real well or what?

Q That's true. The pattern has always been across the state to discourage black participation in politics. How do you do it? You cut them out entirely until 1944, and after 1944 they're permitted to vote. You keep a poll tax until 1966, and once you do that, you throw up what we call administrative impediments to keep them from voting.

Q At any rate, can you give us a number of persons who might have filed for the City Council since '53?

A Well, the race was so hopeless until Mr. Handcox and Mr. Bales didn't come until 1970 and Mrs. Delco didn't come until 1970, and as a result of the abolition of the poll tax, free registration, and again, as a result of the findings of the three-man Federal Court, the permanent registration, you get more blacks registered, and more blacks participate in politics.

JUDGE JUSTICE: Now, he's asking you a specific question, and we want a specific answer. How many people -- how many black people ran for office from 1953 on up to this time, if you know?

THE WITNESS: There were five who ran for City Councilmen up to Mr. Handcox.

Q Now, has this been the area where you have had a greater number to run than any other area, that is, have you had a great number to run for County Commissioner or for the Legislature?

A Only two for County Commissioner. Mr. Hurdle (phonetic) ran for the School Board, Municipal School Board, Independent School District. Mrs. Delco was number two. Only one, Rawlings (phonetic), for the Legislature.

Q Would you conclude then, Dr. Kirven, that when there is a glimmer of hope that you will have more active participation and a greater number of candidates?

A Yes, on the parts of the blacks, speaking for blacks. Where there exists conditions whereby blacks may have an opportunity, a slight chance -- doesn't have to be a 50-50 chance to win, then they will come out in full force.

Q Dr. Kirven, the purpose of this litigation, of course, is to determine whether or not there should be a single-member district. Have you done any thought, done any preliminary work on a feasibility study of such a single-member district?

A Yes, I took my class this semester, and we drew up plans. Well, we were conscious of the fact that the University of Texas students were doing the same thing, so we wanted to get some participation in our students, so they drew up four plans that we went through and studied, and generally one of the plans was almost -- the district lines -- the legislative lines was run almost exactly as the present County Commissioner lines. Then we had modifications. Generally speaking, they all agreed on a plan that the lines would come somewhere south of 290, east of I-35 and down all the way to the Colorado River south.

Q Well, let me just ask you now, do you know what the population of the county is?

A Yes, around 290,000 people.

Q Something around 300,000?

A Right.

Q Among those would you find a contiguous or a homogeneous grouping of persons of similar ethnic and cultural backgrounds?

A With blacks and Mexican-Americans. However, any plan would still include a large portion of whites, no matter how you draw the lines.

Q But you think that across the board their interests would be quite similar?

A Quite similar. At least, Plan B that this group came up with ran across 19th Street over to Guadalupe to 38th, and that was a homogeneous grouping.

Q Let me just ask you one final question. Now the students who worked on this project, were they enthusiastic and highly motivated at the possibility of having an opportunity to participate actively in maybe a semblance of conducting the government?

A From my observation they demonstrated a great degree of enthusiasm. At least, they could see in this plan a glimmer of hope and a fulfillment of some of their aspirations that their parents had talked to them about.

MR. CRAWFORD: Pass the witness.

MR. KORBEL: I have one question, Your Honor.

JUDGE GOLDBERG: All right.

MR. KORBEL: George Korbel, representing

the Plaintiffs Moreno et al.

CROSS-EXAMINATION

BY MR. KORBEL:

Q You said that one of the plans which your students drew up roughly approximated the present County Commissioner lines. Is that correct?

A That's correct.

Q And is one of the present County Commissioners a Mexican-American?

A No, he's David Samuelson, Precinct No. 1.

Q But is one of the present County Commissioners a Mexican-American?

A Yes, Mr. Martin (phonetic).

MR. KORBEL: Thank you.

CROSS-EXAMINATION

BY MR. BLACK:

Q Mr. Kirven, I just want to ask you a couple of questions. You testified that one of your plans for single-member districts that your class drew up was roughly

[396]

along precinct lines.

A The current precinct lines, yes, sir.

Q And you were here when Mr. Wyatt testified, were you not?

A That's correct.

Q And he testified that there was only a remote chance for a black to win on that basis. You agree with that?

A No, I do not. There is a high possibility that a black -- what he didn't tell you was that had he been able to amass 12,000 votes, he would have been in the runoff. He lost in the first primary, and out of a total of approximately 40,000 blacks you can get from that somewhere around of those registered -- more than 50 percent registered about 80 percent will be voting, of the total registered, so you can get in excess of 12,000 votes. There's a good possibility of a black being elected to Precinct 1.

Q Another thing I wanted to ask you just really to get the facts, because Mr. Overton, I believe, testified -- no, I guess it was Mr. Wyatt testified that a whole bunch, a great number of blacks had run for the City Council, and I believe you said that they had not.

What blacks do you remember having run for the City Council?

[397]

A Dewitty in '53.

Q And who else?

A Lott in '55 and the Reverend Walker two years later. We had no one else to my recollection until in the '60's, and a man by the name of Smith, R. L. Smith, a real estate man, ran, and the next to show up was a man by the name of Hammond, Geroge Hammond ran in about '64, and then we had no one else until Mr. Handcox showed on the scene.

MR. BLACK: I believe that's all the questions I have. Thank you.

JUDGE GOLDBERG: Anything else over here (indicating)?

Step down, please.

(WITNESS STANDS ASIDE)

JUDGE GOLDBERG: Call the next witness.

MR. KORBEL: I call for Gonzalo Barrientos. George Korbel, representing the Plaintiffs Moreno et al.

Before I proceed with this witness, Your Honor, I would like to apprise the Court of the fact that the transcript which was introduced of the tape as Moreno Exhibit 25-Travis is a transcript prepared by our office pursuant to an agreement with the Attorney General's office. It is also from tapes which were discovered and

depositions on file.

GONZALO BARRIENTOS,

a witness called by the Plaintiffs, having been first duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. KORBEL:

Q Would you state your name and address for the record, please?

A My name is Gonzalo Barrientos. I live at 2204 Bluebonnet in Austin.

Q What is your occupation, Mr. Barrientos?

A I am presently a free lance consultant on race relations, community organizations, social action programs.

Q Are you originally from Austin?

A No, I am originally from Bastrop, Texas.

Q And were you a student at Bastrop at the time Delgado versus the Bastrop Independent School District was decided?

A Yes, I believe I was in the second grade. Miss Delgado was in the third grade when that case came up.

Q I see, and from the third grade on then did you attend the integrated schools in Bastrop?

A Yes, I did. Prior to that time there were three schools in Bastrop, one for black people, one for the Mexican-American and one for the Anglo.

Q Now, there has been some testimony in this record about blacks having separate social organizations and separate social groupings here in Austin. Do you find the same things true for Mexican-Americans?

A Certainly. This changes a little bit as time goes on, different type organizations. For example, right now the athletic clubs are very strong here in Austin. The softball clubs, football clubs have tournaments, state-wide tournaments.

Q These would be predominatly Mexican-American. Is that right?

A Predominantly, yes.

Q And would Mr. Moya -- is he involved with this group?

A Yes, Mr. Moya had been one of the ball players for a number of years, and in the past few years he became the manager of one of those clubs.

Q Now, for the purpose of the record, Mr. Moya

is the Mexican-American County Commissioner in Travis County. Is that correct?

A Correct.

Q In the Mexican-American community here in Austin do you find low voter registration?

A Yes.

Q How does that compare with the Anglo community, let's say?

A Well, I couldn't give any specific numbers, but I would say a guess in Anglo voters might be 80 percent better in some cases.

Q A higher turnout. Is that what you're trying to say?

A Very definitely.

Q Were you a candidate for the State Legislature in 1972 here in Austin?

A Yes, I was.

Q And was that for the Democratic nomination?

A Right.

Q What place was that?

A It was Place 4.

Q Who were your opponents for Place 4?

A The incumbent Wilson Foreman and a young attorney by the name of Charles Richards. This was in the Democratic primary.

Q During that election campaign were you endorsed by several groups here in Austin?

A Yes, groups ranging from University students to environmental groups and others.

Q Would these have been the same groups who endorsed Representative Sarah Weddington and Representative Bales?

A As I remember, we acquired every endorsement that either Bales or Weddington acquired.

Q As a matter of fact, do you remember what the vote was in the original primary election, the first primary election?

A Roughly it was 39,000 for us, 33,000 for Mr. Foreman and 12,000 for Mr. Richards. Consequently, we had to have a runoff.

Q When you say us, you mean yourself?

A Right.

Q In the runoff election what was the final vote total in the runoff, do you remember?

A More or less 43,000 and 42,000. We lose.

Q You lost by about how many votes?

A Approximately 1,000.

Q Do you feel that there are certain issues that are of particular interest to Mexican-Americans in the East side of Austin that are just not taken care of by the

present representatives?

A I believe so, not only there. Our representatives here in Austin or Travis County, but I think different parts of the state. These issues range from education, health care---.

Q Do you have specific problems that you can point to?

A Well, for example, at the present time in the last couple of years for one reason or another we have had a terrible time with the youngsters and the gold paint sniffing, aerosol cans. In terms of education there have been some bilingual programs, but to my personal opinion not enough concentrated effort made in this. The educating and training of Mexican-American students to come back and take part in this educational aid themselves.

Q How about employees in state government? Do you find that there are sufficient numbers of employees in state government in the service-type organizations who can and do speak Spanish?

A Compared to the population, the Mexican-American employment in state agencies is very, very low. I know this personally.

Q I understand that, but I mean services agencies that are supposed to help the people on the east side of Austin or the west side of San Antonio or wherever,

are there sufficient numbers of people who speak Spanish well enough to deal with these people?

A No, there are not. I think it is very important to have those individuals, because there is a significant percentage of Mexican-Americans that do not speak English that well, and in order to get good communication across, we do need those individuals to help interpret.

Q Now, when you ran for election, can you tell the Court how much you spent in your election campaign?

A We raised and spent $19,000.00 approximately.

Q Can you tell us what the primary amount of that money was spent for?

A Advertising.

Q Would that be primarily television advertising?

A Primarily television. That's the biggest chunk to come out of there. Also newspaper, radio, some printing.

Q Had you been able to run for a single-member district hypothetically here in Austin, which included the primary part of the Mexican-American area, would you have allocated your resources the same way?

A Absolutely not. I think if there were single-member districts, as I understand it, it would cut it up to about 75,000 in each area.

Q That's correct.

A That's an area that one could possibly walk door to door if a person worked hard enough, and I would take off a great deal of money from television time and put it maybe in printing or whatever other---.

Q In fact, could you run cheaper from a single-member district than you could if you had to run county-wide?

A No question about it.

Q If you were running from a single-member district, would there be radio stations and specific newspapers that you would concentrate on that you really couldn't concentrate on from a multi-member district?

A Definitely. There are several radio stations, Spanish radio stations---.

Q Yes, sir.

A There are several neighborhood weekly newspapers so that those are there, yes, sir.

Q One further line of questioning, when you were growing up in Bastrop, what was your family's occupation?

A We were with the migrant trail until I was a junior in high school.

Q Did that migrant trail bring you in the area of Lubbock County?

A Yes, we would first take off down toward South Texas to, oh around Mathes and in that area and then

go back up to Lubbock, Littfield, Munday, that area.

Q When you were in that area, did you experience any specific discrimination against Mexican-American people?

A Yes, definitely. Those are my -- I have some bitter memories of those years, not being allowed to eat in certain restaurants, not being allowed to attend a movie unless it was upstairs in the balcony, some fights with other little kids that call you names.

Q This would have been in the Lubbock area generally. Is that right?

A Generally speaking, yes.

MR. KORBEL: I have no further questions.

MR. GEORGE: One brief question, Mr. Barrientos. I'm Jim George for the Plaintiffs Willeford.

CROSS-EXAMINATION

BY MR. GEORGE:

Q Where is Bastrop County with relation to Travis County?

A Right next door, about thirty miles away.

MR. GEORGE: That's all.

JUDGE GOLDBERG: Anything else from this side?

The Attorney General? Welcome back, Mr. York.

MR. YORK: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. YORK:

Q Mr. Barrientos, how old are you now?

A I'm thirty-two.

Q So you were in the second grade how many years ago?

A I would have to figure it out. It was about '47, something like that.

Q So when you're talking about the Delgado case, you're talking about something that happened twenty-five years ago some thirty miles from Austin?

A Right.

Q Your race against Mr. Foreman was a race against an incumbent?

A Right.

Q And an incumbent of what duration? How many terms had he served?

A I think it was fourteen years he served.

Q You ran as a representative of a minority

group against a fourteen-year incumbent and came within about 1 percent of the runoff vote beating him.

A Well, how do you mean a representative of a minority group? I don't understand your question.

Q Well, you are Mexican-American, are you not?

A I was a Mexican-American that ran for office.

Q That's what I am talking ibout.

A Right.

Q What don't you understand about it?

A I thought perhaps you were implying that I ran only saying that I would represent the Mexican-Americans.

Q You didn't run that way, did you?

A No, I did not. A lot of people thought after advertising that I was, because I got several calls at home asking me whether I was only going to represent Mexicans and Catholics.

Q Did you straighten them out?

A I tried to.

Q Well, you came within 1 percentage point of straightening them out, didn't you?

A Still losing.

Q I understand that, but the vote was 43,000 to 42,000, which is around 1 or 1 1/2 percent of the total vote that divided you and Mr. Foreman, if I understand the arithmetic correctly.

Wouldn't you agree -- in Travis County what is the total Mexican-American percentage of the population?

A Depending on which figures one might read, I think it is anywhere from 12 to 14 percent of the population.

Q You think that's a pretty fair showing on your part, even though you lost?

A In terms of the Mexican-American vote?

Q No, in terms of the fact that you came within 1 percentage point of beating a fourteen-year incumbent.

A Do I think it is a pretty fair showing?

Q Right.

A Certainly.

Q What had been your background publicly in the county prior to that? Had you been actively going around, been seen around on T.V. a lot and widely known in the county, or did you sort of start from scratch or what?

A I had been living here in Austin for about fourteen years since I graduated from Bastrop. After going to the University, I was employed by certain social action programs which gave me an opportunity to work with different sectors of the community in trying to help the low economic strata help themselves. In some cases there were some battles, if you will, that we had that I suppose I came out on T.V. and news.

Q Would you say that the name, Gonzalo Barrientos, was a household word in Travis County at that time?

A No, and it almost wasn't a household word the way it was being pronounced. (LAUGHTER)

A It went from Barracuda to Barumba to Barrenos (phonetic).

Q And Mr. Foreman, of course, would have had much more name identification within the county than you had at the time you ran or began to think about running.

A I didn't serve fourteen years, yes.

Q You mention that the browns or Mexican-Americans have -- do they now have in Travis County what would seem to be separate sort of social groups?

A Separate from the general community?

Q Separate from blacks and Anglos.

A Yes, to a certain extent.

Q Is that one of those things that is sort of a result of the "brown is beautiful" kind of feeling, as opposed to a racial discrimination kind of thing where they can't get in similar white groups?

A I think it is because this community is there in this geographic area of the county, and I would have to go to some of the culture of the Mexican-American, but a

community of la familia type of situation, and in some cases it is kind of hard to join some of the other groups that are within the county.

Q There is a rather substantial movement, I guess, as we all know, among blacks and browns alike around the state, an interest in black culture and brown and Mexican culture, an interest in sort of banking together and retaining some of the ethnic heritage of both groups.

A That's true.

Q Which may not at all be related to racial prejudice or discrimination.

A That's true.

Q All right.

A But it might be a reason for it partly to protect what we say is good.

Q Well, that certainly wouldn't be the only reason why the blacks would be interested in their culture and heritage, the same as the Mexican-American.

(REPORTER'S NOTE: There was no audible response from the witness.)

Q Right?

JUDGE WOOD: You have to speak out. The court reporter didn't hear you.

THE WITNESS: That's true.

Q Now, one last question. You mentioned that as far as endorsements were concerned in this last election, you felt that your group or that you got all the endorsements group-wise that Sarah Weddington and Larry Bales got.

A That's correct.

Q Would that indicate to you that two of the present four members of the Travis County delegation, at least in the view of those who were doing the voting and endorsing, had somewhat of a community of interest with you in similar views and ideals as you had?

A To a certain extent, I suppose you could say that, certainly, if these groups came out endorsing every one of us. The reason for the endorsement might vary. The reasons that I got these endorsements are the positions and stands that I took on the issues. The question that I am often asked in the Mexican-American community, however, is one that comes from frustration and sadness that in spite of the fact that we stood on pretty much the same issues and endorsed by the same groups and organizations, they won and we lost.

MR. YORK: I believe that's all. Thank you, sir.

JUDGE GOLDBERG: Anything else?

MR. KORBEL: Just one further question, Your

Honor. George Korbel for the Moreno Plaintiffs et al.

REDIRECT EXAMINATION

BY MR. KORBEL:

Q Isn't it true that the American G.I. Forum and the LULAC organization were only founded in the post-war years to combat discrimination against Mexican-Americans in Texas and throughout the Southwest?

A That is true.

MR. KORBEL: No further questions.

EXAMINATION

BY JUDGE GOLDBERG:

Q Mr. Barrientos, do you have an opinion with respect to the social action programs that are of particular interest to the minority groups or better represented by representatives of single-member districts as contrasted with multi-member districts?

A Well, that's no question that I believe, there would be better representation from single-member

districts. There was a question that was asked one of the other persons that were testifying as to whether the people that came from single-member districts this last time in the Legislature provided any better representation, and I would underline that doubly that it was very much different. I heartily approve of single-member districts, yes, sir.

JUDGE WOOD: That does raise one question here.

JUDGE GOLDBERG: Surely.

EXAMINATION

BY JUDGE WOOD:

Q Do you have a criteria as to how large the single-member district would be to accomplish this purpose? At the present time in Texas the single-member districts are 75,000. That's considered the ideal. The ideal single-member district for senatorial candidates is 360,000. I believe I am right about that.

What is the ideal single-member district size that would best accommodate the purposes of the ethnic groups in these nine counties, generally speaking? It's got to be uniform, you understand, Mr. Barrientos, throughout the state.

A Yes.

Q Which is the ideal size of senatorial districts or ideal size of single-member districts to best accommodate the needs of the minority that you testified about in your opinion as an expert?

A Yes, my opinion at this point in time -- I think that one could not go over 75,000. Of course, one could not go over 75,000. Of course, as we go along---.

Q Wouldn't it be better in some instances to be smaller?

A Oh, definitely smaller, because we're going to have to have -- what I look at is the scarcity of money in these campaigns if you're going to run without any strings attached as a person that is going out there to get votes, the money that has to be spent. Certainly, as we go along, the more population these districts may have to become bigger, but I certainly hope not.

Q Of course, any time you diminish the size of your single-member district, you enlarge and increase the number of representatives correspondingly. What is your idea of the ideal size for the senatorial district and the ideal size numerically population-wise overall for the entire state of Texas that would best accommodate blacks and the browns in the House of Representatives, single-member, in your opinion with

reference to both senatorial and---?

A That's a difficult question, Your Honor. First of all, I hadn't thought that much about it in terms of the senatorial districts.

Q All right then, we'll disregard the senatorial districts. Just eliminate those. They're 360,000 and the Supreme Court held they are O. K. in this case. Now, what about the House of Representatives? What would be the ideal size state-wide to best accommodate the needs that you claim that the ethnic groups require, that is, the blacks and browns for better representation?

A I would say anywhere from 60,000 to 75,000. I would have to think about it some more, but at the present time that is just off the top of my head.

Q You see the problem?

A Oh, sure, yes.

JUDGE WOOD: Very well.

JUDGE GOLDBERG: Any other questions? We'll stand in recess until 1:30. Now, how many more witnesses do we think we have live?

MR. GEORGE: Your Honor, I believe this concludes Travis County.

MR. RICHARDS: Sarah Weddington.

JUDGE GOLDBERG: All right, you have one more and that's all your live witnesses besides

your expert?

MR. RICHARDS: Oh, no, I have Mr. Ragsdale and Sarah Weddington.

MR. GEORGE: I have one more.

MR. KORBEL: I have at least one and possibly two.

JUDGE JUSTICE: That's five.

JUDGE GOLDBERG: And the State still stays with four. Is that right? Nine more to go -- 12:30.

MR. RICHARDS: 1:30, we hope.

JUDGE GOLDBERG: 1:30.

(LAUGHTER)

JUDGE GOLDBERG: These figures had me confused there.

(REPORTER'S NOTE: The Court then, at 12:00 noon, December 4, 1973, recessed until 1:30 o'clock, P. M., the same date, at which time it was reconvened.)